

EXHIBIT 2

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

PROMESA TITLE III
CASE NO. 17 BK 3283-LTS

In re:)
)
THE FINANCIAL OVERSIGHT)
AND MANAGEMENT BOARD FOR)
PUERTO RICO,)
)
as representative of)
)
THE COMMONWEALTH OF PUERTO RICO,)
THE EMPLOYEES RETIREMENT SYSTEM OF)
THE GOVERNMENT OF THE COMMONWEALTH)
OF PUERTO RICO, AND THE PUERTO)
RICO PUBLIC BUILDINGS AUTHORITY,)
)
Debtors.)

REMOTE VIDEO-RECORDED DEPOSITION

OF

ADAM W. CHEPENIK

on behalf of

ERNST & YOUNG LLP

The 30(b)(6) remote video-recorded deposition upon oral examination of ADAM W. CHEPENIK, on behalf of Ernst & Young LLP, a witness remotely sworn by me, Tara Gandel Hudson, RPR, CRR, a Notary Public in and for the County of Hancock, State of Indiana, taken on behalf of the AmeriNational Community Services, LLC, as servicer for the GDB Debt Recovery Authority, with the witness located in Washington, D.C., on the 20th day of October, 2021, scheduled to commence at 9:30 a.m. AST, pursuant to the Federal Rules of Civil Procedure with written notice as to the time and place thereof.

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1 (9:30 a.m.)

2 THE VIDEOGRAPHER: Good morning. Today is
3 October 20, 2021. We're on the record at
4 9:30 a.m. Today we'll take a videotape
5 deposition in Case Number 17 BK 3283-LTS. This
6 deposition is being held remotely.

7 Would you please swear the witness.

8 ADAM W. CHEPENIK,
9 having been first remotely sworn to tell the truth,
10 the whole truth and nothing but the truth relating
11 to said matter, was examined and testified as
12 follows:

13 DIRECT EXAMINATION,

14 QUESTIONS BY ARTURO J. GARCIA:

15 Q So here we go.

16 First of all, good morning to all. And
17 welcome to the deposition of Adam Chepenik.

18 Am I pronouncing your name correctly?

19 A You are.

20 Q Okay. Thank you. From Ernst & Young. EY,
21 as -- pursuant to an AmeriNational Community
22 Services, LLC, subpoena to testify at a
23 deposition in a civil action.

24 For the record, my name is Arturo
25 Garcia-Sola, McConnell Valdes LLC, appearing on

1 behalf of AmeriNational Community Services, LLC,
2 as a servicer for the GDB Debt Recovery
3 Authority, the DRA, together with my colleagues
4 from MCV, Alejandro Cepeda, Antonio Ramirez,
5 Nayuan Zouairaban.

6 Also participating will be one or more
7 attorneys from Cantor-Katz representing
8 Cantor-Katz Collateral Monitor LLC. For
9 Wilmington Trust of the firm of Schulte Roth &
10 Zabel.

11 I confirm the standard stipulations for the
12 deposition with counsel for EY and also for the
13 FOMB. Regarding the usual objections,
14 everything will be reserved until the hearing
15 except as to form and privilege.

16 And also, I note for the record that
17 objections by one party will be deemed as
18 objections by all the parties.

19 I remind everybody, if I have to remind
20 anyone, that the proceeding today is being
21 remote -- is a remote proceeding; so just allow
22 me to recognize that for the record.

23 Because we are proceeding remotely and
24 everybody is in a different place and room -- I
25 hope that everyone is keeping safe, by the way,

1 on the COVID-19 situation -- I also hope that we
2 can all be cognizant there's technical
3 difficulties, and so I am hoping that we try to
4 avoid speaking over each other and also that we
5 treat each other with professional courtesy so
6 that we can move as expeditiously as reasonably
7 possible.

8 As to the exhibits, we will be using
9 Veritex Egnyte platform, and my colleague
10 Alejandro Cepeda will be marking and publishing
11 any document that is used as an exhibit
12 throughout the deposition. That is because I'm
13 absolutely and totally incapable of managing the
14 technical aspects of the Egnyte program so that
15 everyone participating can have access to the
16 exhibits and review the same.

17 Also, the witness and the witness's
18 attorney will be able to manage the document by
19 scrolling up or down and magnify the object so
20 that you can take a look at the document.

21 So we are proceeding to take the deposition
22 of Ernst & Young through the testimony of
23 Mr. Adam Chepenik pursuant to the agreements
24 between the DRA parties and the FOMB, which have
25 been approved and adopted by the Court and are

1 memorialized in a Court Order dated October 18,
2 2021 -- that's Docket Number 18532 -- and EY's
3 acknowledgment that it will be presenting a
4 witness today, i.e., Mr. Chepenik.

5 So good morning to the witness, and thank
6 you for your appearance here today.

7 Can you please state your full name for the
8 record.

9 A Adam Chepenik.

10 Q Have you ever been deposed before?

11 A I have not.

12 Q Have you ever given testimony before at any
13 trial or any hearing?

14 A Do you mean oral testimony or written?

15 Q Let's start with oral testimony.

16 A No, sir.

17 Q Have you ever presented written testimony to a
18 court?

19 A I filed a written declaration in connection with
20 one of the many Puerto Rico cases.

21 Q Which was that Puerto Rico case?

22 A I do not recall which specific case it pertained
23 to.

24 Q Was that one of the PROMESA cases?

25 A Yes. Yes, sir.

1 Q And do you recall whether that would be the main
2 Commonwealth proceeding?

3 A I believe so, yes.

4 Q So when did you submit a declaration for that
5 proceeding?

6 A I do not recall specifically, but to the best of
7 my recollection, it was about a year or two ago.

8 Q All right. So it was not recent?

9 A No, sir.

10 Q So that declaration, if I may ask, would not
11 have been related to the plan confirmation
12 proceedings that are due to start November 8?

13 A That's --

14 MR. MERVIS: Sorry. I just need to break
15 in here for a minute.

16 So Arturo, this is a request to the
17 witness, but I just want to make sure we're all
18 on the same page.

19 That the agreement that you referenced
20 earlier, which has been docketed, as I
21 understand, it prohibits me as representative of
22 the board from objecting to the form of a
23 question unless Ms. DeCamp doesn't.

24 So the logistical problem with that is if
25 the witness is answering your question fairly

1 quickly, I won't be able to know whether
2 Ms. DeCamp is going to object or not. I
3 actually would have objected to the last
4 question on the form basis.

5 So I would ask the witness to just please
6 pause for, say, five seconds or so before
7 answering the question so that I have the
8 opportunity to do so if Ms. DeCamp doesn't.

9 Is that okay, Arturo?

10 MR. GARCIA: It's okay with me.

11 MR. MERVIS: Thank you.

12 MR. GARCIA: I'll allow you that courtesy.

13 MR. MERVIS: Well, I don't know any other
14 way to do it, Arturo.

15 MR. GARCIA: It's okay. Don't worry.

16 MR. MERVIS: I'll object with a normal
17 proceeding so --

18 MR. GARCIA: That's okay, Michael. All
19 right.

20 BY MR. GARCIA:

21 Q So can I have the testimony read back, please.

22 (The requested text was read by the
23 reporter.)

24 MR. MERVIS: So I object to the form.
25

1 BY MR. GARCIA:

2 Q You can answer.

3 A I believe that to be correct.

4 Q Do you recall in general terms what the subject
5 of that declaration was?

6 A I recall it was related to various Commonwealth
7 laws as it pertains to PROMESA and either their
8 applicability or their revenues associated with
9 those laws.

10 Q Okay. You say, first, various -- "it had to do
11 with various Commonwealth laws."

12 What laws are you referring to,
13 Mr. Chepenik?

14 A The declaration was filed, like I mentioned
15 earlier, one to two years ago, and so I do not
16 recall -- it was not one of the documents I
17 reviewed in preparation for this deposition
18 because it was not one of the topics that was
19 requested and subpoenaed to EY to respond to.

20 Q Do you recall any laws that were part of that
21 declaration or any law in particular?

22 A I do not recall the contents of the declaration
23 in detail because it was not part of the -- one
24 of the -- it was not pertinent to the questions
25 that were subpoenaed for EY to respond to so --

1 Q I understand.

2 Do you recall if Act Number 30 of 2013 was
3 included in that in any way?

4 MS. DeCAMP: Objection. Asked and
5 answered.

6 MR. GARCIA: I'm just asking specific laws,
7 Antoinette.

8 MS. DeCAMP: I understand. I understand.

9 A Should I answer?

10 MS. DeCAMP: You can answer.

11 BY MR. GARCIA:

12 Q Yes, answer.

13 A I do not recall.

14 Q What about Act Number 31 of 2013?

15 MS. DeCAMP: Objection. Asked and
16 answered.

17 You can answer.

18 A I do not recall.

19 BY MR. GARCIA:

20 Q What about any Commonwealth law dealing with
21 excise taxes?

22 MS. DeCAMP: Objection. Asked and
23 answered.

24 You can answer.

25 A I do not recall.

1 BY MR. GARCIA:

2 Q In addition to the hearing at which you
3 submitted a declaration for, have you ever had
4 any participation in any hearing outside of
5 PROMESA -- entirely outside of PROMESA in any
6 capacity?

7 A I'm sorry. You need to be more specific. I
8 don't --

9 Q Okay, I will.

10 Outside of PROMESA, have you ever testified
11 in any other hearing?

12 A No, sir.

13 Q So it's safe to say that the only time that you
14 participated in a hearing was through the
15 declaration you recall you submitted about a
16 year and a half ago?

17 A If by "participation" you mean as a witness?

18 Q Well, in any capacity.

19 A Again, sir, I apologize for asking you to be
20 specific but I've been working in the
21 restructuring space for many years; so if you
22 mean --

23 I understand what you're implying is as a
24 witness to either written or oral form, and if
25 that is the case, to the best of my

1 recollection, this is the only time. Correct.

2 Q Okay. Good.

3 Now you understand that you're testifying
4 under oath here today; correct?

5 A I do.

6 Q Is there anything that would prevent you from
7 doing so like, for instance, you're taking any
8 medication that may inhibit your recollection
9 or, you know, affect your testimony?

10 A Not that I can -- not that I can think of that
11 would --

12 Q Okay. So just a little bit about the logistics
13 for the deposition before we start with the
14 questioning.

15 I'll be asking you some questions about the
16 topics that have been previously identified in
17 the subpoena. Please try to answer all
18 questions verbally so the court reporter can
19 record your answer in the transcript of the
20 deposition, notwithstanding that we are
21 proceeding through video.

22 Also, please allow me to finish my question
23 before you give your answer, just as I will try
24 to wait until you finish your answer to my
25 questions before proceeding to another question.

1 This is necessary to allow the reporter to
2 transcribe accurately the record of the
3 proceedings today.

4 If at any time you do not understand any
5 one of my questions, please let me know, and I
6 will try to rephrase the question so that you
7 can understand it.

8 I'm not here to trick you. I want an
9 accurate record of both my questions and your
10 responses to the question. So again, if you
11 don't understand, please let me know, and I will
12 try to rephrase.

13 Now, you may hear objections, as you
14 already have, before you give your answer.
15 Please note that despite the objections, you are
16 required to answer the questions, unless you are
17 to be instructed by counsel not to answer a
18 particular question.

19 Do you understand?

20 A I understand.

21 Q So also, should you need a break at any point in
22 time, please let me know, and I will make sure
23 that we get the break. Just try not to make --
24 to ask for a break in the middle of a question
25 or in the middle of a particular topic. But if

1 you need a break, just let me know, and we'll
2 break.

3 Sometimes it will be me who needs the
4 break, by the way, not just you so we understand
5 each other.

6 A Understood.

7 Before we proceed, though, I do want to ask
8 if we should take a very brief break now only
9 because I tried to launch the Exhibit Share --

10 Q Okay.

11 A -- web browser, and it's saying I do not have an
12 account. So I don't know if we should take a
13 break now just to --

14 Q Yes, let's do that. It's happened before. I
15 think that there should be a concierge available
16 to help you.

17 MR. GARCIA: Is there a concierge online or
18 Karen?

19 THE VIDEOGRAPHER: We are off the record at
20 9:44.

21 (A recess was taken.)

22 THE VIDEOGRAPHER: Back on the record at
23 9:50.

24 BY MR. GARCIA:

25 Q So I will start again.

1 Mr. Chepenik, by the way do you have --

2 (A discussion was held off the record to
3 correct technical issues.)

4 MR. GARCIA: Hello, Karen, we're listening
5 to you.

6 This is what I was referring to at the
7 beginning when I was talking about technical
8 problems with remote depositions. Sometimes
9 they can be entertaining.

10 BY MR. GARCIA:

11 Q Mr. Chepenik, do you have any documents in front
12 of you today?

13 A I do not, no.

14 Q So I'm going to ask for the first exhibit to be
15 put on the screen. My colleague Alejandro is
16 trying to do that.

17 Can you see the document on the screen,
18 Mr. Chepenik?

19 A I can.

20 (Deposition Exhibit 1 was presented for
21 identification.)

22 Q Have you seen this document before?

23 A If this is the subpoena to Ernst & Young LLP,
24 yes, I have seen it.

25 MR. GARCIA: Can you please scroll down,

1 Mr. Cepeda-Diaz, to Attachment A?

2 BY MR. GARCIA:

3 Q Have you seen this part of the document before?

4 A I have, yes.

5 Q Outside of Topic Number 1, which your counsel
6 has objected and I'm not going to get into, are
7 you prepared to testify with respect to Topics 2
8 through 6 appearing on that listing?

9 MR. MERVIS: Object to the form.

10 BY MR. GARCIA:

11 Q You can answer.

12 A To the best of my ability and to the extent
13 Ernst & Young was involved in the process of
14 preparing the budgets, certainly.

15 Q Okay.

16 So you understand that you are a witness
17 designated by EY; correct?

18 A Correct.

19 Q And you understand that you have been designated
20 to testify based on your knowledge as to
21 Topics Number 2 to 6; correct?

22 MS. DeCAMP: Objection.

23 BY MR. GARCIA:

24 Q You may answer.

25 A To the best of my knowledge and to the extent

1 that Ernst & Young was involved in the budgetary
2 process, yes, I'm prepared, and I understand.

3 Q Did you prepare for the deposition today?

4 A I did.

5 Q Okay. Can you tell me how you prepared for the
6 deposition?

7 A I reviewed a number of documents, and I spoke
8 with a number of colleagues about the topics in
9 the subpoena.

10 Q All right. Let's break this down.

11 With respect to documents, do you recall
12 what documents you reviewed to prepare for your
13 deposition?

14 A I do.

15 Q Can you tell me what those were.

16 A I reviewed the historical budgets that were
17 certified by the oversight board; I reviewed the
18 historical revenue letters that were issued by
19 the oversight board to the government; I
20 reviewed the -- I guess it was an objection to
21 the proposed questions that was filed with the
22 Court by Proskauer; I briefly reviewed the
23 expert report submitted by Mr. Brickley and
24 Ms. Hernandez.

25 Q And Ms. who?

1 A Not Hernandez.

2 Q Martinez?

3 A Martinez. I apologize. Yeah, Ms. Martinez.

4 And I reviewed -- those are the primary
5 things I would say I reviewed.

6 Q We'll come back to that in a minute, but you
7 also said that you discussed with a number of
8 colleagues; correct?

9 A Correct.

10 Q Okay. Can you tell me who were those
11 colleagues?

12 A I spoke with colleagues of mine at Ernst &
13 Young; and I spoke with counsel at Ernst &
14 Young; and I spoke with representatives from
15 Proskauer.

16 Q Starting with your EY colleagues, can you tell
17 me who those were?

18 A Certainly.

19 So the primary people I spoke with at
20 Ernst & Young were Juan Santambrogio, Sophia
21 Panagiotakis.

22 Q I'm sorry, can you -- Sophia?

23 A Panagiotakis. She's Greek. And it's spelled
24 more or less phonetically, but I can't recall
25 off the top of my head.

1 Q Don't worry. We'll look it up.

2 Who else?

3 A So Juan Santambrogio, Sophia Panagiotakis and
4 Shavi Sarna were the three colleagues I spoke
5 with. Oh, and --

6 Yeah, those are the three colleagues that
7 I --

8 And then Antoinette DeCamp as well.

9 Q Sure. I'm not going to get into discussions
10 with your counsel Ms. DeCamp. Okay?

11 You also mentioned that you met with
12 certain representatives from Proskauer; correct?

13 A Correct.

14 Q Who were those?

15 A The representatives from Proskauer I can recall,
16 to the best of my recollection, were Margaret
17 Dale, Michael Mervis, Julie Alonzo, and Michael
18 Firestein, and Ehud Barak.

19 Q Sorry. And who?

20 A Ehud Barak.

21 Q Okay.

22 In addition to the persons that you've
23 identified at EY, your counsel, and the
24 Proskauer attorneys, did you meet with anybody
25 from the FOMB, from the fiscal board, in

1 preparation for the deposition today?

2 A To the best of my recollection, no.

3 Q I'm going to ask you about some specific people.

4 Does that include Mr. David Skeel? Did you
5 meet with him?

6 A Can I just clarify?

7 Are you speaking about in the context of
8 this --

9 Q Preparing for your deposition?

10 A Correct. Okay.

11 My understanding, if that's the context,
12 then the answer is, No, I did not speak with or
13 meet with David Skeel.

14 Q Okay. And ask a different question then.

15 In connection with the topics that you will
16 be testifying to today, not necessarily in the
17 preparation, but did you discuss anything with
18 Mr. Skeel on those topics?

19 A In any capacity of preparation for the
20 deposition today?

21 Q You already told me --

22 You already told me that you did not meet
23 with Mr. Skeel in preparation for the
24 deposition; correct?

25 A Correct.

1 Q All right. I'm asking you a different question
2 now.

3 Had you discussed the topics that would be
4 discussed in a deposition with Mr. Skeel at any
5 point in time?

6 A I appreciate you clarifying.

7 MS. DeCAMP: Wait. Wait. Objection. I
8 think it's still vague.

9 BY MR. GARCIA:

10 Q Do you understand the question?

11 A I think I understand the question. You're
12 asking if I spoke with David in any capacity
13 about the deposition today.

14 Is that what you're asking?

15 Q About the topics that would be discussed in the
16 deposition today. Again, not in the context of
17 preparing for the deposition. Just in general.

18 A To the best of my recollection, I have not
19 spoken with him about the topics that are
20 subject to the declaration today -- or to the
21 deposition today.

22 Q Okay.

23 Did you meet with any other board members
24 in preparation for this deposition today?

25 MR. MERVIS: Just note my objection to the

1 form.

2 BY MR. GARCIA:

3 Q You may answer.

4 You know who the board members are;
5 correct?

6 A I do know who the board members are, and, to the
7 best of my recollection, the answer is no.

8 Q All right. Did you discuss any of the topics,
9 not in preparation for this deposition, but in
10 any context with any of the board members aside
11 from Mr. Skeel?

12 MS. DeCAMP: Objection.

13 You can answer.

14 A You mean -- in what time frame do you mean have
15 I spoken with them?

16 BY MR. GARCIA:

17 Q In the last six months.

18 A To the best of my recollection, no, in the last
19 six months, I have not spoken with the board
20 member -- any board member about the topics that
21 are subject to the deposition today.

22 Q Do you recall if you discussed the topics at any
23 point in time with the board members?

24 A To the best of my recollection, I do not recall
25 having spoken with them about these topics.

1 Q Okay.

2 In preparation for your deposition today,
3 did you meet with Natalie Jaresko, the executive
4 director of the board, with respect to
5 preparation for the deposition?

6 A To the best of my recollection, I have not, no.

7 Q Did you discuss any of the topics? Do you
8 recall having discussed any of the topics with
9 Ms. Jaresko before your preparation for the
10 deposition at any point in time?

11 A To the best of my recollection, no, I do not
12 recall having spoken with her about these
13 topics.

14 Q Do you know of any --

15 Did you meet with any other, let's say,
16 employee? Did you meet with any employee of the
17 oversight board with respect to preparation for
18 your deposition today?

19 Not the board members, not the executive
20 director, any other employees?

21 A To the best of my recollection, no, I have not.

22 Q Okay. So you testified that you reviewed
23 historical budgets, budgets certified by the
24 board, revenue letters, the objections submitted
25 by Proskauer on the topics, and also the expert

1 reports of both Mr. Brickley and Ms. Martinez.

2 Aside from those documents, do you recall
3 anything else that you may have reviewed in
4 preparation for the deposition?

5 A Well, I reviewed the subpoena, which we've
6 already talked about. And the only other
7 document I can recall having reviewed -- well, I
8 did not mention fiscal plans, but I reviewed the
9 historical fiscal plans. And I believe there
10 was a September 10 letter from Proskauer that
11 was sent, I believe, to the DRA parties that I
12 briefly reviewed as well.

13 Q With respect to historical fiscal plans, do you
14 recall which year you reviewed?

15 A The primary one I reviewed was the current
16 fiscal plan. The current certified fiscal plan,
17 that was the primary one.

18 Q Is that the current fiscal plan for the
19 Commonwealth?

20 A Correct.

21 Q Do you recall reviewing any fiscal plan for
22 other instrumentalities of the government?

23 MR. MERVIS: Just note my objection to the
24 form.

25

1 BY MR. GARCIA:

2 Q Do you understand the question?

3 A In the context of preparing for this deposition?

4 Q Yes. Yes, sir.

5 A In the context of preparing for this deposition,
6 to the best of my recollection, I did not review
7 other fiscal plans.

8 Q In particular, did you review a fiscal plan for
9 HTA? Do you know what "HTA" means? The Highway
10 Transportation Authority?

11 A Yeah. There are two questions there. So I do
12 know what HTA represents.

13 Q Okay.

14 A And if you're asking in connection with
15 preparing for this deposition, I did not review
16 the HTA fiscal plan.

17 Q Other than in preparation for this deposition,
18 have you reviewed any fiscal plan for HTA?

19 A Do you have a time frame?

20 Q In the last year.

21 A It is possible I may have looked at the HTA
22 fiscal plan in the past year. I do not recall
23 in any level of specificity the components of
24 it.

25 Q But you have seen fiscal plans for HTA?

1 MS. DeCAMP: Objection.

2 BY MR. GARCIA:

3 Q You may answer.

4 A I have seen fiscal plans of HTA.

5 Q Do you recall which one in particular you saw?

6 A I do, yes.

7 Q Which one was that?

8 A The most current fiscal plan for HTA.

9 Q What is that fiscal plan --

10 For what year is that fiscal plan, sir?

11 A For the current fiscal year.

12 Q So fiscal year 2022?

13 A Correct.

14 Q Did you discuss any of those documents that you
15 have informed yourself in preparation for the
16 deposition with anyone that helped you prepare
17 for your deposition, other than counsel?

18 A I have to ask you to be a little more specific.

19 Q Okay.

20 A Which documents do you mean?

21 Q All right. Let's go one by one.

22 A Okay.

23 Q No problem.

24 You said that you reviewed historical
25 budgets certified by the FOMB; correct?

1 A Correct.

2 Q Okay. Did you discuss those historical budgets
3 certified by the FOMB with anyone in preparation
4 for this deposition?

5 A Thank you for clarifying the question.

6 Yes, I did.

7 Q Who?

8 A It was with the EY team; so with the people I
9 mentioned earlier.

10 Q Was there any counsel present at those
11 discussions with your colleagues?

12 A There were conversations that occurred with
13 counsel present and conversations that occurred
14 with just the EY team.

15 Q Okay. Well, then, referring to the
16 conversations that occurred just with the EY
17 team, your EY team, do you recall what, if
18 anything, you discussed regarding those
19 historical budgets certified by the FOMB?

20 A If you have a specific question about what we
21 discussed, then I'm happy to answer that. You
22 know, I think they were relatively broad
23 discussions to try to refresh my recollection on
24 the budget process, the amounts of the budgets,
25 and matters on the construction of the budgets.

1 Q Okay.

2 So with respect to the construction of the
3 budget, do you recall what was discussed with
4 your colleagues outside of the presence of
5 counsel?

6 A In general, yes, I do.

7 Q Okay. What was that?

8 A We discussed matters such as the budgets are
9 drawn from the fiscal plans; so how the budgets
10 tie to the fiscal plan, the amount of the
11 budget.

12 Q You also mentioned that you reviewed revenue
13 letters; correct?

14 A Correct.

15 Q All right.

16 So with respect to those revenue letters,
17 do you recall if you discussed those revenue
18 letters with anybody -- anyone of your
19 colleagues outside the presence of counsel?

20 A Yes.

21 Q Okay. So same question then.

22 What did you discuss with respect to those
23 revenue letters, in general, with those
24 colleagues outside of the presence of counsel?

25 A To the best of my recollection, we discussed the

1 components of the revenue letter and the
2 structure of the revenue letters.

3 Q Okay. Can you tell me what the components of a
4 revenue letter are?

5 MS. DeCAMP: Objection. I don't know that
6 that ties to any of the topics, but I'll give
7 you a little bit of leeway if this is
8 foundational as to what -- his knowledge for
9 testifying.

10 MR. GARCIA: I'm sorry, Ms. DeCamp. It's
11 actually foundation.

12 MS. DeCAMP: Okay.

13 You can answer.

14 MR. GARCIA: Thank you.

15 A Can you repeat the question?

16 BY MR. GARCIA:

17 Q Yes.

18 What are the components of the revenue
19 letters?

20 A So if you're referring to the revenue letter
21 that's part of the budgeting process under
22 PROMESA, which is my understanding of what
23 you're asking about, the revenue letter is the
24 first step in the annual budgeting process.

25 It defines the envelope from which the

1 government can produce a budget that can be
2 certified by the fiscal plan under Section 202
3 of PROMESA.

4 Q So I'll ask the question again.

5 What components --

6 What are the components of those letters?

7 A Well, I am not quite clear what you mean by
8 "components," but the revenue letter is the
9 first step in the process under PROMESA. It's a
10 letter that has to be issued by the oversight
11 board to the government defining the spending
12 envelope -- well, it defines the revenues from
13 which the government can produce a budget that
14 can be certified by the oversight board as
15 complying with PROMESA.

16 PROMESA does not define, in Section 202,
17 the revenue letter -- the components of the
18 revenue letter. I don't quite understand what
19 you mean, but there's no components that are
20 defined in the revenue letter other than to say
21 it is the revenue envelope from which the
22 government can establish a budget.

23 Q Thank you for the answer, Mr. Chepenik. I asked
24 about the components because earlier, when I
25 asked you about what with respect to revenue

1 letters you discussed with your colleagues, you
2 mentioned two things: first, the components of
3 the letter; and second, the structure of the
4 letter.

5 Do you remember that?

6 A Oh --

7 Q Do you remember that testimony you provided?

8 A Okay.

9 Q Okay. So that's why I'm asking about the
10 components. I think you answered my question --
11 okay? -- to my satisfaction.

12 I'll ask the same question with respect to
13 the structure of the revenue letters. What
14 about the structure did you discuss?

15 MR. GARCIA: Again, Ms. DeCamp, this is for
16 foundational background purposes.

17 MS. DeCAMP: Thank you.

18 A In terms of the structure --

19 Thank you for clarifying.

20 In terms of the structure, I really just
21 meant the component -- or the contents of what
22 were included in the revenue letters.

23 BY MR. GARCIA:

24 Q Then you indicated you also reviewed the
25 objections by the oversight board. I'm not

1 going to get into that.

2 Lastly, you mentioned that you reviewed the
3 expert reports of Mr. Brickley and Ms. Martinez.

4 So with respect to those two reports -- and
5 we can do it one at a time. Let's start with
6 Mr. Brickley -- what do you recall?

7 Why did you review that report, the
8 Brickley report?

9 A Well, I was trying to better understand the
10 context of the questions that were asked because
11 they were a little vague in terms of clarity and
12 what specifically was trying to be sought from
13 this deposition.

14 And so I was trying to better inform myself
15 about the context and the reasons for the
16 questions that were being -- that were being
17 subpoenaed to EY to respond to.

18 Q Okay. With respect to the Brickley report --

19 By the way, did you review the transcript
20 of his deposition?

21 A I did not, no.

22 Q Did you review any transcript of any deposition
23 of any expert -- I realize that that's a lot; so
24 we can break it down after you give me the first
25 answer -- in preparation for your deposition

1 today?

2 A I might be able to shorten that time frame
3 because to the best of my recollection, I have
4 not reviewed any transcripts in preparation for
5 my deposition.

6 Q Great. We're understanding each other. Thank
7 you.

8 All right. So now with respect to the
9 Martinez report, same question as to
10 Mr. Brickley. Why did you review that report?

11 A For the same -- for the same reason. To try to
12 better understand the context for the questions
13 that were subpoenaed to EY to respond to.

14 Q I'm just going to ask the question. You can say
15 "Yes" or "No."

16 Did you meet with anyone from the
17 Commonwealth government in preparation for your
18 deposition today?

19 A To the best of my recollection, I did not.

20 Q Have you discussed the topics that are the
21 subject of the deposition today, to the best of
22 your recollection, with anyone from the
23 Commonwealth government prior to preparing for
24 deposition today?

25 A Again, do you have a time frame in mind?

1 Q Let's say last year.

2 A I do not recall having had any conversations
3 with a representative of the government on this
4 topic -- or on these topics.

5 Q And that's in the last year; correct?

6 A In the last year in preparation for this
7 deposition.

8 Q Okay.

9 Prior to the last year, not in preparation
10 for the deposition, do you recall having
11 discussed any of the topics with anyone from the
12 Commonwealth government for any purpose?

13 MR. MERVIS: Object to the form.

14 BY MR. GARCIA:

15 Q You may answer.

16 A Do you mean in --

17 Do you mean a government official?

18 Q Government official, yes.

19 A I do not recall. To the best of my
20 recollection, I do not recall having had a
21 conversation.

22 Q All right. I ask now in particular with respect
23 to HTA.

24 Do you recall having met with HTA? And I'm
25 going to broaden the time period for that one.

1 With respect to the topics in the deposition
2 today, having discussed any of them with any HTA
3 official?

4 MR. MERVIS: I object to the form.

5 A And you mean me personally?

6 BY MR. GARCIA:

7 Q Yes, you personally.

8 A To the best of my recollection, I have not had a
9 conversation with an HTA official.

10 Q Within the last five years, have you met with
11 any HTA official on anything?

12 A The last five years?

13 Q Yes.

14 A So since EY was engaged to support the oversight
15 board?

16 Q All right. That's fair. Although I think you
17 were an adviser to the fiscal board before you
18 worked with EY; so let's break it up into the
19 two time periods.

20 Let's start with since you've been with EY,
21 which I believe was 2017, April 2017.

22 A Well, I'm certainly prepared to speak to the
23 role EY has played in the budgeting process as
24 it's relevant to this deposition, but I'm not
25 authorized by the U.S. Treasury or others to

1 speak to anything that may have occurred before
2 EY was engaged by the oversight board or,
3 frankly, before the oversight board existed.

4 Q Fine. That's not my question. My question
5 is --

6 Let's take it back to 2017. That's four
7 years and some months.

8 In the last four years and a few months, do
9 you recall having spoken with any HTA official
10 on the topics of the deposition today, in
11 general?

12 MR. MERVIS: Objection to the form.

13 You may answer.

14 A To the best of my recollection, no, I have not.

15 BY MR. GARCIA:

16 Q Approximately how much time did you spend in
17 preparing for your deposition today?

18 A I probably spent 30 hours, 40 hours, maybe.

19 Q Okay. Over how many days?

20 A Over the past several weeks.

21 Q Now, in addition to the documents you reviewed;
22 the conversations you had with your colleagues;
23 the conversations you had with counsel from EY
24 and Proskauer, do you recall having done
25 anything else to prepare for the deposition

1 today?

2 A I do.

3 Q Please, what else did you do?

4 A I think there was one additional conversation
5 that I had with another adviser.

6 Q Okay. Who was that adviser?

7 A Tim Ahlberg from Conway Mackenzie.

8 Q And what was your conversation with Mr. Ahlberg
9 about?

10 A It was confirming something that I believed to
11 be correct and accurate, but I wanted to
12 reconfirm.

13 Q What was that, that you wanted to reconfirm?

14 A Where a -- the flow of funds for certain revenue
15 streams.

16 Q So flow of funds for certain revenue streams.
17 Which revenue streams?

18 A For the conditionally allocable revenues in the
19 fiscal plan.

20 Q Which fiscal plan, if any?

21 A The Commonwealth fiscal plan.

22 Q Any other fiscal plan that you reviewed with
23 respect to those revenue streams?

24 MR. MERVIS: Sorry. I object to the form.

25 MR. GARCIA: Withdrawn. Withdrawn. Okay.

1 Sorry, Michael. Mr. Mervis.

2 BY MR. GARCIA:

3 Q You mentioned that you met with Mr. Ahlberg to
4 confirm an issue about the flow of funds and
5 specifically you said the revenue streams, and
6 particularly the conditionally allocable
7 revenues. What do you mean by "conditionally
8 allocable revenues"?

9 A Those are our revenue streams that are defined
10 in the fiscal plan.

11 Q I'm sorry. That are what?

12 A There are certain revenue streams that are
13 defined in the fiscal plan.

14 Q So how are the conditionally allocable revenues
15 defined in the fiscal plan?

16 A How are they defined?

17 It's just -- I mean, there's a category of
18 revenues that fall under the conditionally
19 allocable revenues.

20 Q What are those revenues that fall in that
21 category?

22 A The rum cover-over -- certain rum cover-over
23 remittances. Tourism, certain tourism hotel tax
24 revenues. Certain petroleum tax collections and
25 certain cigarette tax collections.

1 Q All right.

2 A There may be others, but those are the ones that
3 I recall.

4 Q All right. And what was it that you had to
5 confirm with Mr. Ahlberg with respect to
6 specifically the petroleum tax?

7 MS. DeCAMP: Objection to form.

8 BY MR. GARCIA:

9 Q You may answer.

10 A I don't recall us speaking specifically about
11 the petroleum tax revenue stream in and of
12 itself. There was nothing unique about that
13 particular revenue stream. It was more about
14 the flow of the revenues for all conditionally
15 allocable revenues.

16 Q What about the flow of the revenues you
17 discussed with Mr. Ahlberg to confirm your
18 belief that the flow was accurate?

19 I'm not trying to put words in your mouth,
20 okay? I'm just trying to, you know, cut this
21 short by trying to remember what you testified
22 and asking you the next question.

23 Again, I'm not trying to confuse you. All
24 right? If I were to do that, please, excuse me,
25 and ask me to repeat the question. I have no

1 problem with repeating the question. This is
2 really just background, and I want to understand
3 what you know and what you discussed with
4 others. Okay.

5 A Certainly.

6 Q I don't want to be unfair.

7 Again, can you just tell me, explain to me
8 what was it that you had to confirm with
9 Mr. Ahlberg about the flow of funds?

10 A I was trying to confirm the revenue --

11 I was trying to confirm that the revenue
12 sat within the TSA, in the Treasury Single
13 Account, and were considered as all of the
14 revenues that flowed through the TSA the same,
15 the same way.

16 Q When you say "TSA," what are you referring to?

17 A The Treasury Single Account.

18 Q Is that the main account for the government of
19 Puerto Rico?

20 MS. DeCAMP: Object to form.

21 You can answer.

22 A To the best of my knowledge, the TSA is a series
23 of bank accounts. It's not one. I don't know
24 if I would say it's the main bank account, but
25 it's sort of the consolidation account, if you

1 will, where most revenues are deposited for the
2 government.

3 BY MR. GARCIA:

4 Q Just a follow-up question on that.

5 You say that it's consolidation of
6 accountants where most revenues are deposited.
7 What kinds of revenues, to the best of your
8 recollection, are deposited in that TSA account?

9 MS. DeCAMP: Objection.

10 You can answer.

11 A To the best of my recollection, it's most
12 revenues that are backed by a number of revenue
13 sources, so corporate tax collections,
14 individual income tax collections, various
15 collections from different fees and -- fees
16 and -- I don't know. Other charges that are
17 assessed across the government.

18 BY MR. GARCIA:

19 Q Does that include excise taxes, the revenues
20 coming from excise taxes?

21 MS. DeCAMP: Objection.

22 You can answer.

23 A To the best of my knowledge, the answer is yes.
24 That's what I was trying to confirm.

25

1 BY MR. GARCIA:

2 Q You told me about the petroleum tax, and I want
3 to go into the cigarette tax. What specifically
4 did you discuss about the cigarette tax with
5 Mr. Ahlberg in preparation for this deposition?

6 MS. DeCAMP: Objection. Asked and
7 answered.

8 BY MR. GARCIA:

9 Q Can you answer, please?

10 A Yes. To the best of my recollection, the
11 conversation was about all conditionally
12 allocable revenues. It was not about the
13 cigarette tax specifically.

14 Q What specifically about the cigarette tax did
15 you discuss with him, if anything?

16 MS. DeCAMP: Objection. Literally just
17 asked and answered.

18 MR. GARCIA: But he didn't tell me what he
19 discussed with him with respect to the cigarette
20 tax in particular.

21 MS. DeCAMP: Objection. He did.

22 MR. GARCIA: Can the court reporter please
23 read back the answer.

24 (The requested text was read by the
25 reporter.)

1 MR. GARCIA: And the answer?

2 (The requested text was read by the
3 reporter.)

4 BY MR. GARCIA:

5 Q I understand that it was not about the cigarette
6 tax specifically. I understand that. So do you
7 recall anything -- strike that.

8 Or withdrawn.

9 Do you recall whether you discussed
10 anything in particular about the cigarette tax?

11 A In the conversation with --

12 Q Mr. Ahlberg?

13 A -- Mr. Ahlberg? I do not recall.

14 MR. GARCIA: I think this may be a good
15 moment to break for five minutes. Is that okay,
16 Mr. Chepenik?

17 THE WITNESS: It is.

18 MR. GARCIA: Ms. DeCamp, Mr. Mervis, is
19 that okay with you?

20 MS. DeCAMP: Sure.

21 MR. MERVIS: Yeah, might be closer to ten,
22 Arturo, as a practical matter but that's fine.

23 THE VIDEOGRAPHER: I'll take us off the
24 record at 10:29.

25 (A recess was taken.)

1 THE VIDEOGRAPHER: We are back on the
2 record at 10:40.

3 BY MR. GARCIA:

4 Q All right. So let's keep going.

5 For purposes of helping refresh your
6 recollection about the next few questions that
7 I'm going to ask which have to do with your
8 background, I'm going to put a document on the
9 screen which is really your LinkedIn profile.

10 Okay?

11 A Okay.

12 MR. GARCIA: Alejandro.

13 (Deposition Exhibit 2 was presented for
14 identification.)

15 BY MR. GARCIA:

16 Q Do you recognize this document that's on the
17 screen now?

18 A I do.

19 Q I don't have any other profile for you; so
20 that's why I'm using this. Again, it's just to
21 help you recollect -- refresh your recollection,
22 if need be. Okay?

23 I ask you, Mr. Chepenik, where are you
24 currently employed?

25 A I'm currently employed at Ernst & Young.

1 Q Since when?

2 A Since April of 2017.

3 Q What is your current position with EY?

4 A I am a principal in our restructuring practice.

5 Q Has that been the same position that you have
6 occupied since April 2017, or have you had any
7 other positions?

8 A It's the same position.

9 Q Prior to joining EY, where were you working or
10 employed?

11 A In the most --

12 Right before EY, I was working at the
13 U.S. Department of the Treasury.

14 Q And in what position?

15 A I held multiple positions at the Department of
16 the Treasury.

17 Q Let's start with the first position you had.

18 When did you start working with the
19 U.S. Department of the Treasury?

20 A I started working there in September of 2011.

21 Q And in what capacity did you start working
22 there?

23 A I started working as a senior policy adviser in
24 the office of capital markets.

25 Q And what were your responsibilities in that

1 position?

2 A I'm really not authorized to speak to the
3 specifics of my work there.

4 Q I'm not asking you anything about the specifics.
5 I'm just asking you about your responsibilities
6 in that position.

7 A In that position, I worked on a number of
8 capital market-related matters.

9 Q Okay. And how long did you hold that position?

10 A About two and a half -- two and a half years.
11 Between two and a half and three years.

12 Q Did you go onto another position within the
13 Department of the Treasury?

14 A I did.

15 Q Which position was that?

16 A I became the deputy director for a newly
17 established group at the U.S. Treasury
18 Department called "The Office of State and Local
19 Finance."

20 Q Sorry. Called what?

21 A It was called "The Office of State and Local
22 Finance."

23 Q All right. And for how long did you hold that
24 position?

25 A Approximately three years.

1 Q Until when, more or less?

2 A Until I left the department.

3 Q Okay. When did you leave the department?

4 A I left, as I recall -- the best of my
5 recollection, I left in March of 2011 -- March
6 or April of 2011.

7 Q Can you tell me in general --

8 A Wait, I apologize. 2017, not 2011.

9 Q Okay. In general, can you tell me what your
10 responsibilities were in that position?

11 A In general terms, I was responsible for several
12 of the policy matters that the office managed
13 for the department and several -- you know, the
14 personnel matters, overseeing the office,
15 et cetera.

16 Q In that position, did you do any work related to
17 the government of Puerto Rico?

18 A I -- again, I'm not authorized to speak about
19 what I worked on in connection with my time at
20 the U.S. Treasury Department.

21 In general terms, if that's what you're
22 referring to, in general terms, yes, I had
23 fairly extensive interactions with government
24 officials in Puerto Rico in that capacity at the
25 U.S. Treasury Department.

1 Q Again, just in general terms, nothing specific,
2 but what was your involvement about with the
3 Commonwealth?

4 A Again, I'm not authorized by the U.S. Treasury
5 Department to disclose any interactions or
6 matters that I had with federal officials or
7 with Puerto Rico government officials, but in
8 general terms, I would interact on a regular
9 basis with Puerto Rico officials -- officials
10 from the Puerto Rico government at the time.

11 Q Okay. I ask you to look at your LinkedIn
12 profile, under U.S. Department of the Treasury,
13 as deputy director, specifically there's a
14 description there about what you were doing in
15 that position -- correct? -- which is a public
16 discussion?

17 A Correct.

18 Q Okay. What was that?

19 A What does it say under the --

20 Q You can read it if you want to.

21 A Under the Deputy Director role?

22 Q Yes.

23 A That I served as a liaison between the
24 federal -- between federal officials and
25 government officials in Puerto Rico and provided

1 assistance -- technical assistance to Congress
2 in the drafting of PROMESA.

3 Q Am I to understand that you actually were
4 involved in the drafting of PROMESA?

5 MR. MERVIS: Note my objection to the form.

6 A I would need to better clarify that Congress is
7 the one who drafts laws; so I was not a member
8 of Congress and did not draft PROMESA.

9 BY MR. GARCIA:

10 Q I know you're not a member of Congress, but I am
11 reading from your profile in LinkedIn, which is
12 a public document.

13 You stated in that public document, posting
14 that you:

15 "Provided extensive --

16 -- and I quote --

17 -- "extensive technical assistance to
18 Congress in the drafting of the Puerto Rico
19 Oversight, Management and Economic Stability
20 Act, PROMESA."

21 That's what it says; correct?

22 A Correct.

23 Q So again I ask did you provide --

24 Were you involved in the actual drafting,
25 in any way, shape, or form, of PROMESA?

1 MS. DeCAMP: Objection.

2 You can answer.

3 A Again, members of Congress draft legislation and
4 bills. I was part of the team that provided
5 technical assistance to Congress as they drafted
6 PROMESA.

7 BY MR. GARCIA:

8 Q It also states in your profile --

9 Well, prior to working with the Department
10 of the Treasury -- U.S. Department of the
11 Treasury, where were you employed?

12 A I was employed by The Blackstone Group.

13 Q In what capacity?

14 A I was a member of the restructure team.

15 Q And since when?

16 A Since I graduated from graduate school.

17 Q Until when?

18 A You mean the dates?

19 Q Yes.

20 A From the summer of 2010 to the fall of 2011 when
21 I started for the U.S. Treasury Department.

22 Q Did you also work at JPMorgan Chase?

23 A I did.

24 Q In what capacity?

25 A I held several roles within JPMorgan.

1 Q Can you tell me what those were.

2 A I was a member of the strategy team, as I
3 recall -- equity market strategy, and I was a
4 private banking analyst.

5 Q And what time period did you work at JPMorgan
6 Chase?

7 A That was from the summer of -- well, I interned
8 for JPMorgan when I was in college, and then I
9 worked full time for JPMorgan from the summer of
10 2003 until I left for Harvard Business School in
11 the summer of 2007.

12 Q Okay.

13 And did you also work as an adviser to the
14 FOMB at any point in time?

15 A I worked --

16 Under PROMESA, there's a provision to
17 detail federal officials to help establish the
18 oversight board.

19 And so your question was did I work as an
20 adviser? My understanding what you mean is did
21 I work in any capacity with the oversight board,
22 then it was in the capacity as a detailee from
23 the U.S. Treasury to the oversight board, but I
24 was still an employee of the U.S. Treasury
25 Department.

1 Q So, in other words, you were still an employee
2 of the treasury department, but in detail with
3 the FOMB during the formative stages of the
4 FOMB; is that correct?

5 A Generally, that's correct.

6 Q So what were your responsibilities in that time
7 period working with the FOMB as a detailee from
8 the treasury department?

9 A Again, I'm not authorized to disclose or share
10 any information during my time at the
11 U.S. Treasury Department.

12 Q But this is all working now for the FOMB as a
13 detailee.

14 Is it your testimony that you cannot tell
15 me what you were doing during that time period?

16 MS. DeCAMP: Objection to form.

17 You can answer.

18 BY MR. GARCIA:

19 Q You were working as an adviser in detail with
20 the FOMB?

21 A I'm here today as a representative of EY
22 subpoena, you know, the subpoena that was issued
23 to EY in connection with my work as an employee
24 of EY in its role in connection with supporting
25 the oversight board's --

1 Q We'll get to those questions. I'm just trying
2 it get the background right.

3 So is it your testimony that you cannot
4 tell me, sitting here today, what you were doing
5 while you were in detail from the treasury
6 department with the FOMB?

7 MS. DeCAMP: Objection to form.

8 You can answer.

9 A I'm prepared to speak to EY's role from the time
10 it was engaged by the oversight board to support
11 the oversight board's efforts in connection with
12 the matters that were issued in the subpoena.

13 BY MR. GARCIA:

14 Q I understand that. It's the second time you
15 tell me. I didn't ask the question --

16 I didn't ask that question. I asked a
17 different question, which I will have the
18 reporter read back to you, and then you can
19 provide an answer "Yes" or "No."

20 (The requested text was read by the
21 reporter.)

22 MR. MERVIS: Arturo, you're asking him to
23 answer that question again?

24 MR. GARCIA: I'm asking him to tell me
25 "Yes" or "No." It's a "Yes" or "No" question,

1 and that's the question.

2 MR. MERVIS: Okay. I object to the form.

3 A I am not authorized by the U.S. Treasury to
4 disclose any matters that I worked on while I
5 was an employee at the U.S. Treasury Department
6 or a detailee to the oversight board.

7 BY MR. GARCIA:

8 Q I take that as a no. That's fine.

9 Can you briefly tell us your educational
10 background?

11 A Certainly.

12 I attended graduate school at Harvard
13 Business School in the Harvard Kennedy School of
14 Government where I have a master's in business
15 administration and a master's in public
16 administration. I'm a CFA, a certified -- or
17 chartered financial analyst.

18 In my undergraduate studies, I attended the
19 University of Maryland where I have degrees in
20 finance, economics, and management science and
21 statistics.

22 Q Okay. Let's go back to your position with EY.

23 You mentioned before that you were a
24 principal; correct?

25 A Correct.

1 Q Can you tell us what your responsibilities and
2 duties are in that position?

3 A Could you clarify? In what capacity do you
4 mean?

5 Q The principal. What are your responsibilities?

6 A Generally, a principal in EY is a partner. I'm
7 an equity partner in the firm and responsible
8 for client relationship, client development, and
9 client service.

10 Q Okay. In the client service area, what are your
11 responsibilities?

12 MS. DeCAMP: Objection. Vague.

13 You can answer.

14 A If what you mean is what do I do in terms of
15 client service, I'm not sure if that's what you
16 mean, but is that -- is that what you mean?

17 BY MR. GARCIA:

18 Q Tell me that.

19 A Okay.

20 Q I'll take that.

21 A If what you mean by --

22 My understanding of what you mean is, you
23 know, the role that I play in client service,
24 and that is to oversee the teams of EY
25 professionals that work on different engagements

1 for our clients.

2 So it's overseeing the team, managing the
3 team, the work product that the team produces,
4 and helping where I can and have expertise with
5 the development and production of that work
6 product in support of our clients.

7 Q Okay. So coming, then, to the relationship with
8 the fiscal board or the oversight board, can you
9 tell me what the relationship between EY and the
10 fiscal board is?

11 MS. DeCAMP: Objection. I don't know --

12 Which topic is this? I think we're getting
13 far afield of foundational questions.

14 MR. GARCIA: It's still background. I want
15 to know what the relationship between EY and the
16 FOMB is.

17 MS. DeCAMP: Still objection. Vague.

18 MR. GARCIA: Okay.

19 BY MR. GARCIA:

20 Q You can answer.

21 A EY is a consultant -- is a consultant to the
22 oversight board.

23 Q It is a consultant on what?

24 MS. DeCAMP: Objection. Vague.

25 You can answer.

1 A On a number of matters.

2 BY MR. GARCIA:

3 Q What are those matters?

4 A There are a number of them.

5 Do you mean --

6 Q What are those matters? That's the question.

7 A Are you asking what our scopes of work are? I
8 don't know what --

9 Q I'm asking you what types of matters you work on
10 for the FOMB.

11 A In --

12 Q EY. EY. I'm not talking about you yet. I will
13 get to you.

14 EY.

15 A Okay.

16 Q You said before you were a partner -- an equity
17 partner; that you were a principal.

18 So you work in client service. I'm asking
19 you based on that background, what types of
20 matters EY works on for the FOMB?

21 MS. DeCAMP: Object to form.

22 But you can answer.

23 A Well, we have two -- two primary contracts with
24 the oversight board: one for EY's in-court
25 Title III-related work; and one for our

1 out-of-court, non-Title III-related matters.

2 BY MR. GARCIA:

3 Q With respect to the Title III in-court matters,
4 what are those matters, in general?

5 A I did not review our contracts in preparation
6 for this deposition; so I'm going off of memory.

7 And to the best of my recollection, those
8 matters are around long-term projections,
9 pension matters, the plan of adjustment, and
10 creditor mediation support.

11 Q Credit mediation support?

12 A Creditor mediation. Mediation.

13 Q Okay. Creditor mediation. Okay.

14 Anything else that you recall?

15 A Cash -- cash balance analysis.

16 Q Anything else?

17 A Not --

18 Not that I can recall.

19 Q Okay. Since when has EY had a contract with the
20 FOMB?

21 A A Title III contract?

22 Q Yeah. Let's take that first.

23 A Since 2017.

24 Q Do you recall when in 2017?

25 MS. DeCAMP: Objection.

1 A The documents should be publicly available, I
2 believe. I do not recall off the top of my
3 head, but you can -- you can look it up.

4 BY MR. GARCIA:

5 Q Do you know who the FOMB --

6 Who does EY report to at the FOMB?

7 MS. DeCAMP: Objection.

8 You can answer.

9 A In connection with which matter?

10 BY MR. GARCIA:

11 Q The Title III matters.

12 A Which of the Title III matters?

13 Q Well, you want to do this the hard way; let's do
14 it the hard way.

15 The long-term projections.

16 MR. MERVIS: Whoa, whoa.

17 MS. DeCAMP: Wait. I'll object to the form
18 of that question.

19 Ask a question in a non-argumentative way,
20 please, Mr. Garcia.

21 BY MR. GARCIA:

22 Q Mr. Chepenik, with respect to the long-term
23 projections, who does the FOMB report to -- I'm
24 sorry -- who does EY report to at the FOMB?

25 A I'd like to clarify, too, I'm also not trying to

1 be difficult, as you've stated.

2 Quite literally, we have different -- we
3 work with different people on different matters
4 all the time; so I want to make sure I'm giving
5 you the accurate answer to the question you're
6 asking.

7 And so it's not me trying to be difficult.
8 I just want to be clear about that. I want to
9 be truthful and representative of your intent.

10 Q I appreciate that, and same here. I'm trying to
11 understand what the background is, what the
12 relationships are, and that's what I'm doing.

13 A Okay. So in general -- let me start there
14 because I think that --

15 My understanding is, in general, that's
16 your question, sort of who do we report into.
17 The answer to that is we report into --
18 ultimately, for all of our work product,
19 Natalie Jaresko, as the executive director, and
20 the oversight board members. They are our
21 client.

22 Q So that would be the same answer with respect to
23 pension matters and the plan of adjustment?

24 A Generally, that is the case.

25 Q Okay. And also with respect to cash balance

1 analysis?

2 A Generally, that is the case, yes.

3 Q So I'm --

4 (Reporter request for clarification.)

5 MR. GARCIA: I just said that I'm not going
6 to get into creditor mediation support, which is
7 the other area that he said they provide support
8 to the FOMB.

9 I'm not going to get into that. I'm sure
10 there would be some issues with that, so I don't
11 want to get into that.

12 BY MR. GARCIA:

13 Q Now I'm going to ask you a little bit of the
14 same questions with respect to your personal
15 involvement, not EY, but your personal
16 involvement. Can you tell me in general what
17 your personal involvement has been, that
18 engagement with the FOMB?

19 A In general terms, my role, as one of the senior
20 executives responsible for most of the
21 workstreams that we're involved in; so if you're
22 asking about the Title III-related matters, I am
23 generally involved to some extent in most of
24 them.

25 Q Can you be specific as to any of those tasks

1 that you were personally involved in on the
2 Title III?

3 A I am generally involved in most of the matters
4 that I mentioned to you.

5 Q Okay.

6 So I'm going to now get into some of the
7 substance of the deposition and the topics that
8 were in the subpoena. Okay?

9 And I have shown you that list before. If
10 you want to refer your recollection, we can put
11 it back on the board. I'm not going to ask yet
12 anything specific. It's still just general.
13 Okay?

14 Starting with --

15 Actually starting with Topic Number 6 which
16 has to do with Acts 30 and 31 Incremental
17 Revenues.

18 The question for now, Mr. Chepenik, are you
19 familiar with Acts Number 30 of 2013 and
20 Act Number 31 of 2013?

21 A I apologize. I just pulled up the
22 Exhibit Share. I see the subpoena.

23 Q Yeah. It's Exhibit A to the subpoena.

24 A I'm sorry. I had to scroll down to the
25 question.

1 You asked if I'm generally familiar with
2 Acts 30 and 31?

3 Q Yes.

4 Are you familiar with the statutes?

5 A I am generally familiar with the statutes.

6 Q Okay. What is your understanding of those
7 statutes?

8 MS. DeCAMP: Objection.

9 BY MR. GARCIA:

10 Q Do you have an understanding of what those
11 statutes provide?

12 MS. DeCAMP: Objection. Calls for a legal
13 conclusion. That's not one of the topics.

14 MR. GARCIA: I'm not asking him to give me
15 a legal conclusion. I'm asking him -- he's said
16 he's generally familiar with Acts 30 and 31; so
17 I'm asking him --

18 BY MR. GARCIA:

19 Q -- what is your understanding that the statutes
20 provide in the lay way, as a layperson, not as
21 an expert, not as an attorney, which I know
22 you're not.

23 So just as a layperson, what is your
24 understanding?

25 MS. DeCAMP: I'll object. The scope of his

1 testimony today on Topic 6 and Acts 30 and 31
2 are what is specifically mentioned in Exhibit A
3 as the questions that are presented.

4 Asking for a broad understanding, his
5 personal understanding of Acts 30 and 31 is not
6 an appropriate question for this deposition.

7 MR. GARCIA: Are you instructing the
8 witness not to answer the question based on --

9 MS. DeCAMP: Yes. I'm instructing him not
10 to answer that broad question.

11 You may ask specific questions about the
12 topic in the depo notice.

13 MR. GARCIA: Again, just so I understand
14 and the record is clear, Ms. DeCamp, you're
15 instructing the witness not to tell me if he
16 knows what his understanding is about Act 30,
17 31, which is purely a foundational question.

18 Is that what you're telling me, Ms. DeCamp?

19 MS. DeCAMP: Could you explain to me how a
20 lay interpretation of Acts 30 and 31 is a
21 foundational question to the specific questions
22 that you're asking?

23 MR. GARCIA: It was frankly because I want
24 to know what his knowledge is about the statute,
25 if any. Then I can ask more specific questions

1 that are in the topic.

2 I first need to know what his understanding
3 is of the statutes.

4 MS. DeCAMP: So this question is not a
5 question that Ernst & Young LLP is --

6 His response to this question will not be
7 the response by Ernst & Young LLP; it will
8 simply be his own personal understanding, if he
9 has one.

10 MR. GARCIA: That's fine. I will take that
11 answer, Ms. DeCamp.

12 MS. DeCAMP: With that carve-out, you may
13 answer to the extent that you have a personal
14 understanding of Acts 30 and 31.

15 A My personal understanding, not in my capacity as
16 a firm for Ernst & Young's understanding of
17 Acts 30 and 31, is that Act 30 relates to -- and
18 this is to the best of my understanding too --
19 Act 30 relates to additional license fees that
20 were allocated to the highway authority -- or at
21 least to be allocated to the highway authority.

22 Act 31 pertains to petroleum tax
23 collections and to additional cigarette tax
24 collections in their allocation to HTA.

25

1 BY MR. GARCIA:

2 Q In that context, the context that you just gave
3 me about your understanding, what do you mean by
4 "allocation" or "allocated to HTA"?

5 A Just addition -- again, this is my personal
6 understanding. I'm not a lawyer, nor am I an
7 expert in either of these laws.

8 Q That's fine. That's fine.

9 A My understanding is it released additional funds
10 beyond the statutory limits that previously
11 existed.

12 Q Okay. Fine.

13 But when you say "allocated," what do you
14 mean by that?

15 A That historically had been used by the
16 authority.

17 Q In the work that you have done --

18 In the work that you have done for the
19 FOMB, did you -- withdrawn.

20 In the work that you have done for the
21 FOMB, did you have occasion to review into what
22 accounts those funds coming from Acts 30 and 31
23 were deposited?

24 A In my personal -- in my personal?

25 Q In your involvement for the FOMB, the work

1 you've done for the FOMB, do you have an
2 understanding as to into what account those
3 funds were deposited, Acts 30 and 31?

4 MR. MERVIS: Object to the form.

5 A To the best of my recollection, I do not -- I
6 personally do not know which accounts those --
7 like account number, if that's what you're
8 asking for, that those funds are deposited into.

9 BY MR. GARCIA:

10 Q Do you know whether those funds -- those
11 revenues were deposited into the TSA account
12 that you mentioned before?

13 A Ultimately, my understanding is that's where
14 those revenues sit; that they make their way
15 into the TSA, just as many other revenues are
16 deposited into the TSA.

17 Q Okay. And from the TSA, do you have a general
18 understanding as to where those funds were
19 transferred?

20 MR. MERVIS: I object to the form of the
21 question.

22 BY MR. GARCIA:

23 Q You may answer.

24 A Over what time period?

25 Q During the time that you have been working for

1 the FOMB, in 2017, engaged as a consultant.

2 A So EY was not engaged to perform a, you know,
3 forensic-tracing analysis of those funds, and to
4 the best of my knowledge, most of that money is
5 still sitting in the TSA.

6 Q Do you remember earlier that we discussed your
7 conversation with Mr. Ahlberg on the flow of
8 funds; correct?

9 A Correct.

10 Q As part of that conversation that you had with
11 Mr. Ahlberg, did you discuss the HTA funds that
12 were in the TSA -- that were in the TSA account?

13 Did you discuss that?

14 MS. DeCAMP: Objection.

15 You can answer.

16 A To the best of my recollection, we discussed all
17 the conditionally allocable revenues, not the
18 HTA -- not the HTA component of those
19 conditionally allocable revenues.

20 BY MR. GARCIA:

21 Q As you just said, HTA was a component of those
22 conditionally allocated revenues; correct?

23 MR. MERVIS: I object to the form.

24 A By "HTA," my understanding is you mean
25 certain -- like the petroleum tax revenues, or

1 which revenues do you mean?

2 BY MR. GARCIA:

3 Q Well, you tell me.

4 What part of the allocable -- what was your
5 term -- conditionally allocable revenues were
6 HTA revenues?

7 MS. DeCAMP: Objection.

8 BY MR. GARCIA:

9 Q You can answer.

10 A To the best of my understanding, I believe it's
11 petroleum tax revenues and certain cigarette tax
12 revenues and certain license fee revenues.

13 Q With respect to the conversation you had with
14 Mr. Ahlberg, did you have occasion to discuss
15 with him where those funds would be transferred
16 from the TSA account?

17 MR. MERVIS: Object to the form.

18 BY MR. GARCIA:

19 Q You may answer.

20 A To the best of my recollection, we did not
21 discuss that.

22 Q Okay. By the way, since I'm on Number 6 now,
23 I'll ask you a couple of questions with respect
24 to Number 6.

25 Did you ever speak with anybody at the FOMB

1 with respect to Topic Number 6 -- specifically
2 Topic Number 6?

3 I know I asked questions in general before.
4 I want to know if, with respect to Topic
5 Number 6, which is one of the topics that you've
6 been designated to speak to, do you recall
7 whether you met with anybody from the FOMB to
8 discuss that topic?

9 A My understanding, you mean in connection with
10 preparing for the declaration --

11 Q Yes.

12 A -- I'm sorry -- for the deposition.

13 And if that's the case, to the best of my
14 recollection, no, I have not spoken with any
15 representative of the FOMB.

16 Q So you have not spoken with any representative
17 of the FOMB with respect to Topic Number 6;
18 correct?

19 MR. MERVIS: I object to the form of the
20 question.

21 BY MR. GARCIA:

22 Q You can answer.

23 A To the best of my recollection, that is correct.
24 I have not spoken with a representative of the
25 FOMB in connection with Question Number 6.

1 Q Okay. Do you know whether anyone at the FOMB
2 would have knowledge relative to the topic on
3 Number 6?

4 MS. DeCAMP: Objection.

5 BY MR. GARCIA:

6 Q You can answer.

7 A I'm here as a representative of EY pursuant to
8 the subpoena that was issued to EY in connection
9 with EY's work on these topics.

10 I can't speculate. I wouldn't know what
11 people at the FOMB know or don't know.

12 Q So my question was whether --

13 So you don't know whether anyone at the
14 FOMB would have knowledge of this topic?

15 MR. MERVIS: Object to the form.

16 A To the best of my knowledge, I'm unaware of what
17 they may or may not know.

18 BY MR. GARCIA:

19 Q You're not aware of what?

20 A I'm not -- to the best of my knowledge, I'm not
21 aware of what, you know, a representative of the
22 oversight board may or may not know.

23 Q Okay.

24 A I couldn't tell you whether they --

25 Q All right.

1 Did you do anything to try to determine
2 whether anyone at the FOMB would have knowledge
3 about that specific topic in Number 6?

4 A I'm here as a representative of EY pursuant to a
5 subpoena that was issued to EY in connection
6 with its work that it's done on the budgetary
7 development and certification process. So the
8 answer is no, I'm not aware.

9 Q Okay.

10 MR. GARCIA: Alejandro, can you please post
11 Tab Number 30 on the board.

12 (A discussion was held off the record to
13 correct technical issues.)

14 MR. GARCIA: Having a couple of technical
15 issues. Sorry.

16 Sorry about this.

17 MR. KOFF: Arturo, it's Doug Koff. And I
18 need a break in like five minutes because I'm
19 attending too.

20 So if we can take one. I apologize to
21 everyone, but I just need like a three-minute
22 break.

23 MR. GARCIA: Can we go off the record for
24 five minutes while we also fix the technical
25 issue here?

1 Do you mind?

2 THE VIDEOGRAPHER: I'll take us off the
3 record at 11:20.

4 (A recess was taken.)

5 THE VIDEOGRAPHER: We're back on the record
6 at 11:31.

7 BY MR. GARCIA:

8 Q Sorry about those technical issues. Took a
9 little longer than I expected, but we'll move
10 forward.

11 Okay?

12 (Deposition Exhibit 3 was presented for
13 identification.)

14 Q There's a document on the screen, but before I
15 go to the document, I'll ask you one other
16 question with respect to -- in general with
17 respect to Topic Number 6.

18 I don't want you to enter into the subject
19 matter of any discussions, if there were any
20 discussions. Okay? I don't --

21 I'm just asking you whether anyone from
22 Proskauer, the law firm representing the FOMB,
23 provided you any information to help you prepare
24 to testify on this particular topic today?

25 MR. MERVIS: Arturo, sorry, which topic are

1 you referring to?

2 MR. GARCIA: Number 6.

3 MR. MERVIS: Okay.

4 A To the best of my recollection, no.

5 BY MR. GARCIA:

6 Q So did you, in preparing for the deposition,
7 again, not getting into the substance, if there
8 was any, but did you meet with anybody from
9 Proskauer to prepare for the deposition on this
10 particular Topic Number 6?

11 A I recall having a handful of meetings with
12 representatives from Proskauer on all of the
13 topics in preparation for the deposition.

14 I cannot recall a specific meeting just to
15 talk about Topic Number 6.

16 Q Okay. And I believe you indicated before that
17 those meetings would have been with --

18 Well, I don't want to have an objection of
19 asked and answered. I'm not recalling who you
20 mentioned.

21 MR. GARCIA: Do you mind, Antoinette, if I
22 ask that question again?

23 MS. DeCAMP: Sure. Go ahead.

24 BY MR. GARCIA:

25 Q Can you please tell me who you met with from the

1 FOMB with respect to Topic Number 6, to the best
2 of your recollection.

3 MS. DeCAMP: Yes. It's a different
4 objection. It's not the --

5 Yeah.

6 MR. GARCIA: I'm sorry, you guys were
7 speaking over each other; so I didn't hear
8 either one.

9 MR. MERVIS: Yeah. Arturo, you asked who
10 he met with from the FOMB. I don't know if
11 that's what you meant to ask.

12 MR. GARCIA: I'm sorry. From Proskauer.

13 BY MR. GARCIA:

14 Q From Proskauer, Mr. Chepenik.

15 A So I think I just answered the prior question in
16 terms of the context of the discussions that I
17 had with representatives from Proskauer, and
18 they were on all topics, not just a meeting on
19 Topic Number 6.

20 If that's what you mean, which I interpret
21 that is what you mean, the attorneys at
22 Proskauer that I met with in preparation for my
23 deposition generally were Margaret Dale, Michael
24 Mervis, Michael Firestein, Ehud Barak, and Julia
25 Alonzo.

1 Q Yes. Thank you for that. Those were the ones I
2 remembered, but I just wanted to make sure.

3 A Okay.

4 Q So can you see a document on the screen?

5 A I can.

6 Q Okay. Have you seen this document before?

7 A I have.

8 Q You have.

9 Do you recall when you saw it the first
10 time?

11 A I do not recall the first time I saw it. I do
12 recall having seen it in preparation for the
13 deposition today.

14 Q Okay. That was going to be my next question; so
15 thank you.

16 So in your --

17 Can you give me an explanation of what the
18 document is. I don't want to put words in your
19 mouth.

20 MR. MERVIS: I object to the form.

21 A This is what is commonly referred to as
22 "Act 30."

23 BY MR. GARCIA:

24 Q Okay.

25 MR. GARCIA: Can you please scroll down to

1 the part where it, you know, talks about the
2 revenues allocated.

3 I think it's highlighted. Maybe we didn't
4 use the --

5 Can you please highlight the language,
6 Mr. Cepeda. Okay.

7 BY MR. GARCIA:

8 Q Do you see the highlighted language in the
9 document now? It's highlighted in light blue?

10 A Yes.

11 Q It states, and I quote:

12 "Except as otherwise provided in the Act,
13 the amount of the fees collected in accordance
14 with Sections 23.01 and 23.02 of this Act shall
15 be covered in its entirety into a special
16 deposit in the name and for the benefit of the
17 Highways and Transportation Authority."

18 Do you see that language?

19 A I see the language, yes.

20 Q Do you have your own understanding of that
21 language in the statute?

22 MS. DeCAMP: Objection. Again, you're
23 asking about his personal understanding?

24 MR. GARCIA: Yes, his personal. I said
25 "your own understanding."

1 BY MR. GARCIA:

2 Q Do you have your own understanding about the
3 language that is highlighted, Mr. Chepenik?

4 THE WITNESS: Antoinette, should I answer?

5 MS. DeCAMP: You can answer if you have
6 your own personal understanding about what this
7 Act -- what this language says.

8 A I don't have -- I don't have my own personal
9 understanding about what this language has or
10 means. I think we're operating, you know, in
11 the PROMESA world. And I can certainly speak to
12 the budgeting process generally, but I do not
13 have a specific personal point of view on this
14 language.

15 BY MR. GARCIA:

16 Q Do you recall, when was the first time that you
17 saw this language in the statute?

18 A As I recall, the first time I focused on this
19 provision is right now.

20 Q Is when?

21 A Right now, when you just showed it to me.

22 Q All right. So you had not seen this provision
23 of the statute before?

24 MR. MERVIS: Object to the form.

25 A I have seen the statute in preparation for the

1 deposition, but I don't personally recall this
2 particular provision, reviewing that as part of
3 my deposition preparation.

4 BY MR. GARCIA:

5 Q Okay. And prior to deposition preparation, had
6 you seen the statute?

7 A I have seen the statute prior to my -- yes.

8 Q In what connection did you see the statute?

9 A It's just commonly referred --

10 It's a commonly referred statute, and I
11 just recall having seen it in the past.

12 Q So again, in what connection do you recall
13 having seen it in the past?

14 A I do not recall.

15 Q So you don't remember what you saw the statute
16 in connection with in the past? That's your
17 testimony?

18 A I do not recall.

19 Q To the best of your recollection, did you review
20 the statute for anything related to your work
21 for the oversight board?

22 A To the best of my recollection, I do not.

23 Q You did not.

24 That's your answer?

25 A To the best of my recollection, I do not recall.

1 Q Okay. Is the statute in any way, shape, or form
2 related to your work for the FOMB? your personal
3 work for the FOMB?

4 MR. MERVIS: I object to the form.

5 MS. DeCAMP: Objection.

6 BY MR. GARCIA:

7 Q You can answer.

8 A To the best of my recollection, no.

9 MR. GARCIA: Can you put Act Number 31 on
10 the screen.

11 Slow process. I apologize.

12 Okay. It's coming up.

13 (Deposition Exhibit 4 was presented for
14 identification.)

15 BY MR. GARCIA:

16 Q Do you see a document on your screen,
17 Mr. Chepenik?

18 A I do, yes.

19 Q Have you seen this document before?

20 A I have, yes.

21 Q Okay. What is this document, to the best of
22 your understanding?

23 A To the best of my understanding, this appears to
24 be Act 31.

25 Q And can you tell me what is your understanding

1 about, in general, about Act 31?

2 MS. DeCAMP: Objection. Asking for his
3 personal understanding again?

4 MR. GARCIA: Yes.

5 MS. DeCAMP: Okay.

6 BY MR. GARCIA:

7 Q Yes. Yes, please answer.

8 A So my personal understanding of this is it
9 relates to additional petroleum tax revenue
10 collection remittances and cigarette tax
11 collection remittances.

12 MR. GARCIA: Can you please scroll down to
13 the same section that you were on before in
14 Act 31.

15 I think it's there. Yes, that's the one.

16 Can you please highlight 1, and then (a).

17 BY MR. GARCIA:

18 Q Okay. Do you see the language highlighted in
19 light blue on the document, Mr. Chepenik?

20 A I do, yes.

21 Q Okay. And I quote, it says:

22 "The sum of the tax collected on gasoline
23 and four cents of the gas, oil, or diesel oil
24 tax established by Section 3020.06 of the
25 subtitle, and the total amount per fiscal year

1 of the excise tax collected for crude oil,
2 partially finished, and finished oil by-products
3 and any other hydrocarbon mixtures established
4 in Section 3020.07 of this subtitle, shall be
5 covered into a special deposit in favor of the
6 Highways and Transportation Authority for its
7 corporate purpose."

8 Do you see that language?

9 A I do, yes.

10 Q Have you seen that language before?

11 A I do not recall having seen that language.

12 Q So did you see it in preparation -- do you
13 recall having seen it in preparation for your
14 deposition today?

15 A I do not recall having focused on that clause in
16 preparation for my deposition today.

17 Q Again, I'm going to ask you your own personal
18 understanding of what this particular provision
19 of Act 31 provides.

20 MS. DeCAMP: I'll object. It's outside the
21 scope of the depo.

22 But you can answer.

23 MR. MERVIS: I object to form.

24 BY MR. GARCIA:

25 Q You can answer.

1 A I do not have a personal point of view on what
2 this provision means.

3 Q Okay.

4 Have you seen the language, and I quote:

5 "Shall be covered into a special deposit in
6 favor of the Highways and Transportation
7 Authority for its corporate purposes"?

8 Have you seen it before?

9 A It has not been something that I have focused
10 on.

11 Q In connection with the discussion you had with
12 Mr. Ahlberg regarding the testimony you gave
13 before -- I don't want to repeat it -- or repeat
14 it.

15 Did you have occasion to discuss, you know,
16 this particular sections of Act 30 and 31?

17 MR. MERVIS: Note my objection to the form.

18 BY MR. GARCIA:

19 Q You may answer.

20 A No. To the best of my recollection, we did not
21 discuss.

22 Q In general, have you seen the language, and I
23 quote:

24 "Shall be covered into a special
25 deposit" --

1 -- before in this type of statute?

2 MS. DeCAMP: Objection.

3 But you can answer.

4 A You mean as a provision of the Act 31 or --

5 I'm not quite sure what --

6 BY MR. GARCIA:

7 Q In general terms, I'm asking whether you've seen
8 this type of language:

9 "Shall be covered into a special
10 deposit" --

11 -- before in these types of statutes?

12 MS. DeCAMP: Objection.

13 BY MR. GARCIA:

14 Q You may answer.

15 A No, not that I can recall.

16 Q All right. So I'll try -- in fact, you can't
17 recall.

18 Do you recall what this particular language
19 signifies, and I quote:

20 "Shall be covered into a special deposit."

21 Do you know?

22 MS. DeCAMP: Objection.

23 BY MR. GARCIA:

24 Q You may answer.

25 A I don't have a personal perspective on what that

1 particular language would mean for this law. In
2 a PROMESA -- under a PROMESA framework, not
3 under this particular law.

4 Q That's fine, but I'm not asking you about
5 PROMESA framework. I'm asking you about this
6 particular language in the statute outside of
7 any other context.

8 Am I to understand that you have no
9 particular understanding about those words in
10 the statute?

11 Is that your testimony?

12 MR. MERVIS: Object to the form.

13 BY MR. GARCIA:

14 Q You may answer.

15 A I do not have a particular point of view on what
16 that provision implies.

17 Q Okay. Let's go to (A). You see the highlighted
18 portion of the statute that starts with the
19 letter (A)? It's the second highlighted
20 paragraph.

21 A Yes, I see that.

22 Q And I quote it, it says:

23 "The secretary shall transfer every month,
24 or as agreed on with the Highways and
25 Transportation Authority, the amounts covered

1 into said special deposit, deducting from these
2 the amounts reimbursed according to the
3 provisions of Section 3030.19 and 3030.20 of
4 this subtitle."

5 Do you see that language?

6 A I do, yes.

7 Q Have you seen this language before?

8 A Not that I recall.

9 Q You didn't see it in preparation for this
10 deposition?

11 A I did not focus on that language for this
12 deposition, no.

13 Q Yeah. But my question was whether you saw it in
14 preparation for the deposition?

15 MS. DeCAMP: Objection.

16 You can answer.

17 A To the best of my recollection, no.

18 BY MR. GARCIA:

19 Q Did you discuss these two provisions that are
20 highlighted with anybody in preparation for your
21 deposition?

22 A To the best of my recollection, no.

23 Q Does that include anybody from the FOMB?

24 A It does.

25 Q Does that include anybody from Proskauer?

1 A It does.

2 Q Okay.

3 Do you know where the taxes covered by
4 Acts 30 and 31 are being deposited,
5 Mr. Chepenik?

6 MR. MERVIS: I object to the form.

7 BY MR. GARCIA:

8 Q You may answer.

9 A To the best of my understanding, they are
10 deposited ultimately into the Treasury Single
11 Account.

12 Q Do you know if after they are deposited in the
13 TSA account that we were discussing before, they
14 are transferred somewhere else?

15 MR. MERVIS: Objection.

16 BY MR. GARCIA:

17 Q You may answer.

18 A In which time period do you mean? Currently?

19 Q In the last four years, since you've been
20 working with EY?

21 A There's only one instance in which I'm aware of
22 a specific allocation of these revenues.

23 Q What was that one instance that you're aware of?

24 A In 2019, there was a special resolution passed
25 pertaining to petroleum tax revenues.

1 Q Okay. What was that special resolution?

2 A It was part of the certified budgeting process,
3 and, yeah, I mean that -- it allocated petroleum
4 tax revenues.

5 Q Do you recall what the resolution provided?

6 A I recall it provided for \$299 million of
7 petroleum tax revenues to be allocated for, I
8 recall, to the best of my recollection, for
9 police and teacher salaries.

10 Q Allocated to whom?

11 Sorry. I didn't hear.

12 A I don't know -- if you have the resolution, it
13 would help refresh my recollection. But I
14 recall -- to the best of my recollection, I
15 believe it was for police and teacher salaries.

16 Q Other than that special resolution related to
17 those \$299 million of petroleum taxes, do you
18 know where the revenues in Acts 30 and 31 would
19 be transferred outside of the TSA account to?

20 MS. DeCAMP: Object.

21 But you can answer.

22 A To the best of my recollection, I'm not aware of
23 other transfers of those revenues.

24 BY MR. GARCIA:

25 Q But are you aware that they are transferred?

1 MS. DeCAMP: Object to form.

2 A No.

3 My understanding, to the best of my
4 recollection, is that those monies are generally
5 deposited in TSA. Cash is cash. It's
6 commingled within the Treasury Single Account.

7 BY MR. GARCIA:

8 Q So is it your understanding that, except for the
9 \$299 million that were the subject of the
10 special resolution in 2019, the funds are
11 deposited in the TSA account and remain there?

12 A Since EY was retained, I believe that is the
13 case.

14 Q All right.

15 MR. GARCIA: I believe this might be an
16 appropriate moment to break for lunch.

17 Mr. Chepenik, how long do you need for
18 lunch?

19 THE WITNESS: What time -- how long is
20 customary?

21 MR. GARCIA: It's as little as half an hour
22 to as long as one hour. What is --

23 THE VIDEOGRAPHER: We'll go off the record.

24 MR. GARCIA: We can go off the record.

25 THE VIDEOGRAPHER: Let's go off the record

1 at 11:53.

2 (A recess was taken.)

3 THE VIDEOGRAPHER: We are back on the
4 record at 1:01 p.m.

5 BY MR. GARCIA:

6 Q Good afternoon, everyone. Especially to
7 Mr. Chepenik. Hope you all had a healthy and
8 nice lunch. I hope that the weather, wherever
9 it is you are, is better than the one we're
10 having in San Juan.

11 Anyway, I'm going to ask Mr. Cepeda to
12 bring another exhibit to the screen. This one
13 could take a little longer because it's a pretty
14 big document, but I'm not going to go into much
15 of it at all, just actually maybe two
16 paragraphs, if not just one.

17 (Deposition Exhibit 5 was presented for
18 identification.)

19 Q Mr. Chepenik, do you see a document on your
20 screen?

21 A I do.

22 Q It's been identified as Exhibit 5 for the depo.

23 Have you seen this document before?

24 A I have, yes.

25 Q Can you tell me what it is?

1 A This is --

2 I believe this is the most current
3 certified fiscal plan for the central
4 government.

5 Q In other words, for the Commonwealth?

6 A Yes, the Commonwealth government.

7 Q Are you familiar with the document?

8 A I am, yes.

9 Q Did you have occasion prior to today to review
10 this document?

11 A I did, yes.

12 Q In what setting did you review it before?

13 A In conjunction with a number of our work -- EY's
14 workstreams.

15 Q Any other context besides the workstreams?

16 A Not particularly, no.

17 Q Did you review the document in preparation for
18 the deposition today?

19 A Oh, I did not realize that was the question.

20 Yes, I did.

21 Q It actually was not the question, but I was
22 first exploring other context before coming to
23 this one, but you've answered. Thank you.

24 Did EY have any involvement in the
25 preparation of the fiscal plan that's on the

1 screen?

2 A EY had input on a few specific topics for the
3 fiscal plan but was not the primary consultant
4 hired by the oversight board to prepare and
5 review the fiscal plan.

6 Q Okay. By the way, did you have any involvement
7 with EY in connection with the fiscal plan?

8 A I did, yes.

9 Q What specific topics was EY working on with
10 respect to the fiscal plan?

11 A To the best of my recollection, the main
12 contributions were around the Department of
13 Education section; and in those measures around
14 the section on the office of the CFO, the CFO
15 proposal; and the Pension section in the fiscal
16 plan.

17 Q So that was your answer with respect to EY.

18 Would that be the same answer with respect
19 to your own involvement in the preparation of
20 this fiscal plan?

21 A To the best of my recollection, I was personally
22 most involved in the OCFO section and the
23 Pension section.

24 Q Was there any involvement by EY or by you in
25 connection with the HTA part of the fiscal plan?

1 A To the best of my recollection, no.

2 Q In preparation for the deposition today, did you
3 review any HTA sections in the fiscal plan prior
4 to today?

5 A I did not, no.

6 MR. GARCIA: Okay. I'm going to ask
7 Mr. Cepeda to scroll down to page 45 of the
8 document.

9 BY MR. GARCIA:

10 Q Before we look at the language, do you know how
11 the fiscal plan treats the revenues generated by
12 Acts 30, 31?

13 MS. DeCAMP: Objection.

14 You can answer.

15 BY MR. GARCIA:

16 Q Please answer.

17 A To the best of my knowledge, they are treated
18 the same way that all other revenues -- or
19 virtually all other revenues of the government
20 are treated.

21 Q Okay. Can you tell me what that way is.

22 MS. DeCAMP: Objection.

23 BY MR. GARCIA:

24 Q Please answer.

25 A My understanding is revenues are all

1 consolidated into one aggregate revenue stream
2 that's forecasted out, and then expenses are
3 forecasted out against those revenues.

4 Q When you say that "all the revenues are
5 consolidated into one aggregate revenue stream,"
6 what do you mean by that?

7 A That there's no particularly unique treatment
8 for different revenue streams. They are all
9 treated the same -- in the same fashion where
10 the revenues are forecasted out creating a
11 revenue baseline, if you will.

12 Measures are incorporated. Those can be
13 fiscal or structural reform measures that have
14 an impact on various revenue streams. And then
15 those revenue streams are all totaled to create
16 an aggregate revenue stream.

17 Q After the aggregate revenue stream is created --
18 strike that. Withdrawn.

19 For what purpose in the fiscal plan is the
20 aggregate revenue stream created?

21 MS. DeCAMP: Objection.

22 BY MR. GARCIA:

23 Q You can answer.

24 A My understanding is the revenue stream is
25 created to forecast the total amount of revenues

1 available for expenses to be allocated against
2 or surpluses to be generated.

3 Q Okay. All right.

4 So now I'm going to ask you to turn to
5 Section 5.1, Baseline revenue forecast.

6 What's a baseline revenue forecast? Do you
7 know?

8 MS. DeCAMP: Objection. Objection.

9 You can answer.

10 A So EY does not set the baseline revenue
11 forecast; so I cannot tell you with absolute
12 certainty. But my understanding is the baseline
13 revenue forecast is the revenue forecast before
14 measures are applied. So before either fiscal
15 measures or structural reform measures.

16 MR. GARCIA: Can you please highlight,
17 starting with the sentence that begins:

18 "The inclusion of these revenues" --
19 -- until the end.

20 Okay.

21 BY MR. GARCIA:

22 Q Do you see the highlighted portion of that
23 section on your screen, Mr. Chepenik?

24 A Yes, I do.

25 Q Okay. I'm just going to read a part of that for

1 the record, and I quote:

2 "The inclusion of these revenues in the
3 2021 fiscal plan is based on the oversight
4 board's legal conclusions that: (i), such monies
5 are property of the Commonwealth; (ii), each
6 pre-PROMESA statute appropriating or
7 transferring such monies to instrumentalities of
8 the Commonwealth is preempted by PROMESA; (iii),
9 such statutes were enacted by prior legislatures
10 that cannot bind the current legislature; and
11 (iv), in any event, absent PROMESA, under the
12 Puerto Rico Constitution, such monies would not
13 be transferred to the instrumentalities while
14 general obligation debt is not being paid
15 according to its terms."

16 Do you see that highlighting?

17 A I do, yes.

18 Q Have you seen this language before?

19 A To the best of my recollection, I do not recall
20 having focused on that language.

21 Q Okay. I'm not going to ask you any question to
22 provide me any kind of a legal conclusion. I
23 know you're not a lawyer. Okay?

24 I'm not going to ask you either to
25 interpret, in any legal way, the provision that

1 I highlighted. Okay? I'm not doing that.

2 I'm just asking you what is your
3 understanding of this language in the
4 Commonwealth fiscal plan for 2021?

5 MS. DeCAMP: To clarify, you're asking for
6 his personal view as opposed to any EY position;
7 correct?

8 MR. GARCIA: Yes.

9 BY MR. GARCIA:

10 Q I'm asking you for your personal view.

11 MS. DeCAMP: You can answer to the extent
12 you have a view.

13 MR. MERVIS: I object to the form.

14 BY MR. GARCIA:

15 Q Okay. You can answer.

16 A I do not have a particular view about what this
17 means.

18 Q You have --

19 You don't have a particular view. Do you
20 have any view?

21 MR. MERVIS: Same objection.

22 A I do not.

23 BY MR. GARCIA:

24 Q Okay.

25 Now, you've indicated that you've worked

1 with the FOMB with respect to the preparation of
2 fiscal plans, and you indicated what areas of
3 the fiscal plan you were involved with. I know
4 that. Okay?

5 But do you have experience outside of this
6 engagement in the preparation of fiscal plans in
7 general? And, again, either you personally or
8 you as a member -- as a principal of EY.

9 MR. MERVIS: I'm sorry. Can I ask the
10 reporter to read that back.

11 Thank you.

12 (The requested text was read by the
13 reporter.)

14 MR. MERVIS: I object to the form.

15 BY MR. GARCIA:

16 Q Please answer.

17 A In terms of fiscal plans, can you better
18 elaborate what you mean by that.

19 Q Well, do you know what a fiscal plan is?

20 A I know what this fiscal plan is but not
21 necessarily what you mean more generally.

22 Q Have you worked in the preparation of fiscal
23 plans outside of this engagement at any time?

24 MR. MERVIS: Objection to the form.
25

1 BY MR. GARCIA:

2 Q You may answer.

3 A My understanding is what you imply by "fiscal
4 plan" is a multiyear -- a multiyear sort of plan
5 for a public sector entity that may or may not
6 be in connection with the bankruptcy process.

7 If that is what you mean, the answer is
8 yes.

9 Q Okay.

10 Well, based on that answer that you have
11 just given, I ask you whether you've seen this
12 type of language in other fiscal plans, either
13 in the Commonwealth setting or other settings
14 before?

15 MS. DeCAMP: Objection.

16 BY MR. GARCIA:

17 Q You can answer.

18 A I would say, you know, based on my experience,
19 that each sort of multiyear plan that's
20 developed by a public sector entity, be it a
21 state or local government, is unique to that
22 state or local government's situation. So it's
23 not always in connection with the same types of
24 processes.

25 Q Based on your experience, you cannot tell me

1 whether you have any understanding of what this
2 language means for purposes of this particular
3 fiscal plan of the Commonwealth?

4 MS. DeCAMP: Objection.

5 You can answer.

6 A I do not have a point of view on this language.

7 BY MR. GARCIA:

8 Q Okay. I'm not asking your point of view. I'm
9 asking you about understanding -- any
10 understanding that you may have with respect to
11 this language on the fiscal plan.

12 MS. DeCAMP: Objection.

13 You can answer.

14 A I don't have a particular understanding of this
15 language, no.

16 BY MR. GARCIA:

17 Q So you have --

18 You don't have a particular understanding,
19 but do you have any understanding?

20 A I don't have a particular understanding of this
21 language.

22 Q So I understand that you have no understanding
23 whatsoever about this language in the fiscal
24 plan?

25 MS. DeCAMP: Objection.

1 You can answer.

2 A I do not have a particular understanding of the
3 language.

4 MR. GARCIA: Let's go to a different
5 exhibit. This one is a little less heavy, but
6 it's still somewhat heavy; so it's going to
7 probably take some time coming up on the screen.

8 (Deposition Exhibit 6 was presented for
9 identification.)

10 BY MR. GARCIA:

11 Q Mr. Chepenik, do you see a document on the
12 screen now?

13 A I do, yes.

14 Q It's been marked as Exhibit 6 for the
15 deposition.

16 Have you seen the document before?

17 A I have, yes.

18 Q In what setting did you see the document before?

19 A I just generally reviewed various fiscal plans
20 once they were prepared.

21 Q Okay. For what purpose do you "generally review
22 various fiscal plans"?

23 A Just to try to be informed about -- about
24 different fiscal plans.

25 Q And for what purpose do you want to be informed

1 about the fiscal plans, sir?

2 A I just want to be the best-prepared adviser that
3 I can be for our client.

4 Q Okay.

5 Did the FOMB have any involvement in the
6 preparation of the HTA fiscal plan?

7 MR. MERVIS: Did you say "FOMB," Arturo?

8 MR. GARCIA: Yeah.

9 MR. MERVIS: Okay.

10 BY MR. GARCIA:

11 Q Do you know if the FOMB had any involvement?

12 A I personally was not involved, nor was EY
13 involved in the preparation of the HTA fiscal
14 plan; so I cannot tell you with certainty.

15 However, the document was certified by the
16 oversight board ultimately, and so I would --
17 based on my experience, I would imagine that
18 there was some review of the fiscal plan.

19 Q Yeah. Actually, the cover of the document
20 actually states, and I quote:

21 "As certified by the Financial Oversight
22 and Management Board for Puerto Rico."

23 Is that correct?

24 A That's correct, yes.

25 Q Would that give you any references to what was

1 the involvement of the FOMB in the preparation
2 of the fiscal plan?

3 MS. DeCAMP: Objection. Calls for
4 speculation.

5 BY MR. GARCIA:

6 Q You can answer.

7 A I genuinely -- I'm unaware of the extent of the
8 involvement that the oversight board had in the
9 development of the fiscal plan.

10 Q Okay. What does it mean to "certify" a fiscal
11 plan?

12 MR. MERVIS: Object to the form.

13 A To the best of my knowledge, I do know. And to
14 the best of my knowledge, the certification is a
15 requirement under PROMESA, Section 2 -- under
16 Section 2 of PROMESA, I believe it's
17 Section 201, that lays out a series of 14
18 criteria that need to be met for a fiscal plan
19 to be able to be certified by the oversight
20 board.

21 So it implies that the oversight -- in the
22 oversight board's view, that the certified
23 fiscal plan met those criteria.

24 BY MR. GARCIA:

25 Q Do you know what those criteria are?

1 MS. DeCAMP: Objection.

2 You can answer.

3 A Generally, yes.

4 BY MR. GARCIA:

5 Q Can you tell me what those are, to the best of
6 your recollection?

7 A I would need your help pulling up PROMESA to
8 look at the 14 criteria.

9 Q Right.

10 A I don't recall.

11 Q Perfect. I withdraw that one.

12 Do you have any recollection of what some
13 of the criteria may be?

14 I'm not going to ask you about PROMESA. I
15 can look it up. I just want to understand what
16 your recollection may be about the fiscal plan.

17 A I don't recall, off the top of my head.

18 Q Okay.

19 A I would have to refresh my recollection.

20 Q That's fine. That's fair. We're not going
21 there.

22 Did EY have any involvement in the
23 preparation of the HTA fiscal plan?

24 A To the best of my knowledge, no.

25 Q Did you personally have any involvement as an

1 adviser to the FOMB?

2 MS. DeCAMP: Objection. Asked and answered
3 but --

4 MR. GARCIA: The prior question was with
5 respect to EY. I'm asking now whether he
6 personally had --

7 MS. DeCAMP: Outside of EY? That's not
8 within the scope of the deposition.

9 BY MR. GARCIA:

10 Q Any involvement.

11 A No, not that I recall.

12 Q Okay.

13 To your knowledge or your best
14 recollection, was anybody else, aside from the
15 FOMB, involved in the drafting of a fiscal plan
16 like this one?

17 MR. MERVIS: Object to the form of the
18 question.

19 BY MR. GARCIA:

20 Q You can answer.

21 A So I apologize asking you to clarify.

22 So you mean with respect to the HTA fiscal
23 plan or to just any fiscal plan?

24 Q I'm actually referring to the HTA fiscal plan,
25 which is the one that's right on the board now.

1 A I understand.

2 I'm not aware of who was involved in the
3 development of the fiscal plans.

4 Q Okay.

5 A You did mention whether -- the FOMB's
6 development of the fiscal plan. My
7 understanding of the process is the government
8 submits a fiscal plan to the FOMB that reviews
9 that fiscal plan, and ultimately it's
10 certified -- whatever version is certified is
11 certified because it meets those 14 criteria in
12 Section 201.

13 Q Okay. Good. That's actually what I was trying
14 to get. Thank you. I just didn't want to put
15 words in your mouth.

16 MR. GARCIA: Let's go to pages 49 to 51,
17 and I'm specifically looking for Section 2.1.

18 We can't seem to find it.

19 Sorry. I was directing my colleague to the
20 wrong page in the document. My mistake. I
21 apologize.

22 MR. MERVIS: Arturo, what page is it?

23 MR. GARCIA: Yes, Michael?

24 MR. MERVIS: What page number are you on?

25 MR. GARCIA: We're on page 25, Section 2.1.

1 I was directing Alejandro to the wrong page.
2 Again, my mistake.

3 MR. MERVIS: Yes, I've got it. I couldn't
4 see it on the screen.

5 MR. GARCIA: Yes, I know. This is why we
6 were not finding it. It was my mistake.

7 MR. MERVIS: Okay.

8 BY MR. GARCIA:

9 Q There's language there, but I'm going to ask you
10 a couple of background questions before I get to
11 the language.

12 Do you know whether Act -- whether --
13 strike that.

14 Before, when we were talking about fiscal
15 plans, you testified about revenue streams going
16 to the fiscal plans.

17 Do you remember that testimony?

18 A Generally, yes, I do.

19 Q Okay. And earlier, also, you testified about
20 Act 30, 31 revenues, and you described them in
21 your own words as -- I don't recall whether you
22 used the words "excise taxes," but you used
23 "revenues generated by different statutes";
24 correct?

25 A I do not recall if those are the exact words

1 that I used.

2 Q Right.

3 Do you recall what the words were? I just
4 want to put it in context.

5 MR. MERVIS: Object to form.

6 BY MR. GARCIA:

7 Q Please answer to the best of your recollection.

8 A To the best of my recollection, I recall saying
9 that Act 30 relates to certain license fees and
10 Act 31 relates to certain petroleum taxes and
11 cigarette taxes.

12 Q And I ask the question then now, based on your
13 answer, whether those types of revenues that
14 come out of those taxes that you just mentioned
15 are sources of operating revenues for government
16 instrumentalities.

17 Do you know?

18 MR. MERVIS: I object to the form.

19 BY MR. GARCIA:

20 Q You can answer.

21 A I -- I'm not aware of the use of those funds.

22 Q I'm not asking you for the use of those funds,
23 at least not yet.

24 I'm asking you whether those are sources of
25 operating revenues.

1 MR. MERVIS: Same objection.

2 A I'm unaware if those particular revenue sources
3 are operating revenues.

4 BY MR. GARCIA:

5 Q Before -- all right. Strike the word
6 "operating."

7 Are you aware whether they are sources of
8 revenue?

9 A For whom?

10 Q For government instrumentalities?

11 A I'm aware that, you know, that the taxes under
12 those provisions, just like taxes under other
13 provisions, are revenues. Whose revenues they
14 are, I can't necessarily speak to.

15 Q Okay. Before we saw Acts 30 and 31, we saw them
16 on the screen; correct?

17 A Correct, yes.

18 Q And we marked them as exhibits?

19 A Yes.

20 Q And I read some language of the two statutes
21 into the record of the deposition, and I asked
22 questions about those; correct?

23 A You did, yes.

24 Q And we were talking about Act 30, 31 revenues;
25 correct?

1 A We were, yes.

2 Q In light of our discussion earlier today and
3 your knowledge of Acts 30, 31, do you understand
4 that Acts 30, 31 revenues that come from the
5 excise taxes are revenues to HTA in your -- in
6 your understanding?

7 MS. DeCAMP: Objection.

8 MR. MERVIS: Object to the form.

9 BY MR. GARCIA:

10 Q Do you have an understanding of that?

11 A No. I do not believe that is the case.

12 Q You don't believe that they are revenues -- that
13 the Act 30, 31 aren't revenues?

14 A That was not your question, if I --

15 Q So explain to me your answer then.

16 MS. DeCAMP: Why don't you ask the question
17 again, and then he can answer your question.

18 MR. GARCIA: Can I have the question read
19 back. Not the last one, but the one prior to
20 the last one.

21 (The requested text was read by the
22 reporter.)

23 BY MR. GARCIA:

24 Q So Acts 30, 31, are they revenues?

25 A Okay. So, yes, I believe that the money

1 collected under those acts is revenue.

2 Q Okay. And do you have an understanding as to
3 revenue for whom?

4 MS. DeCAMP: Objection.

5 You can answer if you have a personal
6 understanding.

7 A I do not have a personal point of view of that,
8 no.

9 BY MR. GARCIA:

10 Q Okay. Please review while I read for the record
11 the language that's highlighted in Exhibit 5.

12 And the relevant language is, and I quote:

13 "Before 2015, HTA received appropriations
14 of revenues from the cigarette tax, gasoline
15 tax, diesel tax, petroleum tax, vehicle license
16 fees collected by the Commonwealth.

17 "In 2015, the sitting governor issued
18 Executive Order 2015-046, pursuant to which the
19 Commonwealth began retaining these revenues."

20 Do you see that language?

21 A I do.

22 Q Have you seen this language before?

23 A This particular language, to the best of my
24 recollection, I have not.

25 Q Okay. The Executive Order 2015-046 that's

1 referenced in the language that I quoted for the
2 record, have you seen that executive order
3 before?

4 A To the best of my recollection, I have not.

5 Q So to the best of your recollection, you did not
6 see the Executive Order 2015-046 in preparation
7 for your deposition today?

8 A That is correct.

9 And I'll just add that that executive order
10 was issued in 2015, which was before the
11 oversight board was constituted, PROMESA was
12 passed, or EY was retained.

13 Q You are absolutely correct, yes.

14 Do you know whether Executive Order
15 2015-046, that is referenced in the HTA fiscal
16 plan, is still in place?

17 A My understanding is we're operating in a
18 post-PROMESA world, and PROMESA is the statute
19 that governs the development of these fiscal
20 plans and the allocation of revenues.

21 Q Okay. So based on your answer that you just
22 gave me, is it your understanding that Executive
23 Order 2015-046 is not presently in effect?

24 MS. DeCAMP: Objection.

25 You can answer.

1 A I do not have a point of view. I am unaware.

2 BY MR. GARCIA:

3 Q So the taxes that are referenced in the
4 particular language that I read into the record,
5 meaning cigarette tax, gasoline tax, diesel tax,
6 petroleum tax, and vehicle license fees, do you
7 see that language?

8 A I do, yes.

9 Q Do you know what those words in the language
10 that I read for the record refer to?

11 MS. DeCAMP: Objection.

12 You can answer.

13 A I am not positive.

14 BY MR. GARCIA:

15 Q Okay. Earlier, when we were talking about
16 Acts 30, 31, and we were talking specifically
17 about different taxes, you referred to cigarette
18 taxes; correct?

19 A Correct.

20 Q And you also referred to gasoline tax; correct?

21 A Correct -- no. I think I referred to petroleum
22 taxes but --

23 Q Okay. Petroleum tax.

24 You referred to petroleum tax; correct?

25 A Correct.

1 Q I think you also referred to license fees?

2 A Correct.

3 Q Do you know whether those taxes that are listed
4 there and the license fees are the taxes that
5 are referred to in Acts 30, 31?

6 MS. DeCAMP: Objection.

7 BY MR. GARCIA:

8 Q You can answer.

9 A I'm not positive.

10 Q So before when we were talking about those
11 different taxes that we identified, what were
12 you referring to?

13 A A portion of those taxes fall under Act 30 and
14 31, but a portion of the cigarette tax, for
15 instance, goes for other purposes, as I
16 understand it.

17 So I don't necessarily -- I don't
18 necessarily make the connection between these
19 taxes being Act 30, 31 taxes or just the taxes
20 in general.

21 Q Okay. But with respect to the ones that are
22 listed on this paragraph that I highlighted for
23 you and also quoted for the record -- and,
24 again, I'm referring to the cigarette tax, the
25 gasoline tax, diesel tax, petroleum tax, and

1 vehicle licenses fees collected by the
2 Commonwealth, are those taxes that may be
3 included, in your best recollection, in Acts 30
4 and 31, to some extent?

5 MR. MERVIS: I object to the form.

6 BY MR. GARCIA:

7 Q You can answer.

8 A It is -- I'm not sure whether it's the same
9 taxes.

10 Q But are some of those taxes part of Act 30 and
11 31 that we were discussing before?

12 MS. DeCAMP: Objection --

13 You can answer.

14 A I'm not --

15 I can't say with certainty. I can't say
16 with certainty that those are the same taxes
17 that are being referenced.

18 BY MR. GARCIA:

19 Q All right. Do Acts 30 and 31 include cigarette
20 tax? Include cigarette tax?

21 A Act 31 does, I believe, yes.

22 Q Do Acts 30 or 31 include gasoline tax?

23 A I believe it does, yes.

24 Q Do Acts 30 or 31 include diesel tax?

25 A I -- to the best of my recollection, I believe

1 it does.

2 Q Do Acts 30 or 31 include petroleum tax?

3 A To the best of my recollection, Act 31 does,
4 yes.

5 Q So does Act 30 or 31 include vehicle license
6 fees?

7 A To the best of my recollection, it includes a
8 portion of the license fee under Act 30.

9 Q So, in other words, all those taxes or fees
10 referenced in this particular section of the
11 fiscal plan that I read into the record are
12 included to some extent in Acts 30 and 31;
13 correct?

14 MS. DeCAMP: Objection.

15 You can answer.

16 A Again, I apologize. I'm not positive that those
17 are the same -- the same specific taxes
18 designated under those laws are the ones that
19 are referenced here but --

20 BY MR. GARCIA:

21 Q I'm not trying to be difficult. I am not.

22 You just said with respect to each of those
23 that they were part of, not probably all of
24 them, but to some extent, each of those --
25 cigarette tax, gasoline tax, diesel tax,

1 petroleum tax, and vehicle license fees -- were
2 included within Act 30 or 31; is that correct?

3 A Yes.

4 Q Okay. So then I ask you the question again with
5 respect to the language in the highlighted
6 portion: Do you understand, based on what we
7 just discussed, that the highlighted language is
8 referring, at least in part or to some extent,
9 to Act 30, 31 revenues?

10 MR. MERVIS: Object to the form.

11 BY MR. GARCIA:

12 Q You can answer.

13 A It is possible, but I cannot say with certainty.

14 Q Do you have any knowledge as to how those
15 particular revenues were assigned to any
16 government instrumentality?

17 And I mean the same revenues we're talking
18 about: cigarette tax, gasoline tax, diesel tax,
19 petroleum tax, and vehicle license fees.

20 MR. MERVIS: Objection to form.

21 A Over which time period do you mean?

22 BY MR. GARCIA:

23 Q Well, let's say from -- before 2015. Before
24 the --

25 MR. MERVIS: Objection.

1 BY MR. GARCIA:

2 Q Do you know?

3 MS. DeCAMP: Objection.

4 BY MR. GARCIA:

5 Q Okay. Do you know?

6 A I am personally not familiar with the
7 allocation.

8 The way we produce budgets is we take the
9 revenues from the fiscal plan and use that as an
10 envelope, and so there's no distinction or
11 differentiation between the revenues.

12 Q Okay. So when you create a budget, you have
13 revenues on one side; correct?

14 MS. DeCAMP: Objection.

15 You can answer.

16 A When you create a budget --

17 So the first step -- I think we covered
18 this at the very beginning -- the first step in
19 the budget process is to issue a revenue letter
20 which sets the envelope for spending under that
21 budget, and that revenue envelope is drawn from
22 the fiscal plan.

23 BY MR. GARCIA:

24 Q Great.

25 And do those revenues include taxes such as

1 cigarette tax, gasoline tax, diesel tax,
2 petroleum tax, and vehicle license fees?
3 Include. There may be other sources, but do
4 they include those types of taxes or fees?

5 MR. MERVIS: Objection.

6 BY MR. GARCIA:

7 Q You may answer.

8 A I can't say for certain. We quite literally
9 take, you know, the output of the total revenues
10 from the fiscal plan, and that sets the revenue
11 envelope for spending.

12 Q Okay.

13 A It doesn't differentiate between what those
14 revenues -- what revenues are included, which I
15 believe is your question.

16 Q So when you create a budget, you take a
17 number -- a total number for revenues and
18 include that in the budget.

19 Is that what you're telling me?

20 A Sorry. Can you repeat the question.

21 MR. GARCIA: Can you read it back, please.

22 (The requested text was read by the
23 reporter.)

24 MR. MERVIS: Note my objection, please.

25

1 BY MR. GARCIA:

2 Q You can answer.

3 A The process is set by the -- the expenditures
4 are set to match the -- to equal the revenues.

5 Q Yes.

6 And am I understanding that to be a
7 balanced budget?

8 A No, not at all.

9 Q When revenues are equal to expenses -- that's
10 what you just said; right? -- are you referring
11 to a balanced budget?

12 A No, I'm not.

13 MR. MERVIS: Hold, hold it.

14 BY MR. GARCIA:

15 Q Okay. So what are you referring to?

16 What are you referring to?

17 MR. MERVIS: Objection to the form.

18 BY MR. GARCIA:

19 Q What are you referring to?

20 A I'm referring to your question which is do
21 expenses equal the revenue in the revenue
22 letter.

23 Q All right. So again, my question really was
24 whether --

25 When you are creating a budget, you take a

1 total number of revenues that the entity, let's
2 say the Commonwealth, is expecting to receive
3 and drop that into the budget.

4 Is that how you do it?

5 MR. MERVIS: Object to the form.

6 MS. DeCAMP: Objection.

7 BY MR. GARCIA:

8 Q You can answer.

9 A No.

10 We take the revenues from the fiscal plan
11 to set a revenue parameter for spending, and
12 then the government develops a budget based off
13 of that revenue parameter, envelope, if you
14 will.

15 Q And is that revenue parameter provided in a
16 total number of revenues?

17 A Generally, in the revenue letter that I
18 reference, yes.

19 Q Okay. Is the revenue parameter at any point in
20 time provided in specific numbers coming from
21 specific -- from particular sources?

22 A For which -- I mean, for over what time -- over
23 what time frame?

24 Q Just in general. I'm talking about the
25 preparation of a budget.

1 A So for -- as an example for the current year's
2 budget, the revenue letter is just one number
3 for total general fund spending.

4 Q Right.

5 And is that revenue parameter or number in
6 the revenue letter? Is it otherwise informed or
7 split into different revenue sources anywhere in
8 the process of creating a budget?

9 MR. MERVIS: Objection to the form.

10 A For the current year budget, the revenue letter
11 has one line, has one number for general fund
12 spending that can be spent.

13 BY MR. GARCIA:

14 Q Mr. Chepenik, can you please refer me back to
15 your experience in preparing a budget for
16 government instrumentality.

17 MS. DeCAMP: Objection.

18 BY MR. GARCIA:

19 Q You can answer.

20 A I apologize. I don't understand the question.

21 Q What of the question you don't understand? I'm
22 asking you about your experience in preparing
23 budgets for government instrumentalities.

24 Do you have experience preparing budgets
25 for government instrumentalities?

1 A Generally, yes. I've helped in my role at EY
2 as -- in the preparation of the review of
3 budgets. I'm not -- I apologize. It's not
4 clear to me what you're asking.

5 Q I'm just in general asking you about your
6 experience in preparing budgets. You know,
7 you've given me your experience before, and now,
8 in the answers to my question, you are, you
9 know, kind of straying away from that
10 experience.

11 So I'm trying to ask you now, to put it in
12 black and white, in context, what is your
13 experience preparing a budget for a government
14 instrumentality or reviewing a budget?

15 MS. DeCAMP: I will object --

16 I object to the argumentative preface
17 before you got to what your actual question was.

18 MR. GARCIA: Okay.

19 MR. MERVIS: I object to the part that came
20 after the argumentative preface.

21 MR. GARCIA: Keep the argumentative aspect
22 of the question and just go to the question.

23 BY MR. GARCIA:

24 Q What is your experience in either preparing or
25 reviewing budgets for government

1 instrumentality?

2 A I helped work with and oversee the team at EY
3 that helps review the budgets for the oversight
4 board.

5 Q And in that role, as you just defined, what do
6 you do to review the budgets? What do you look
7 at?

8 A We look at the submissions from the government
9 on the spending parameters to validate that
10 those proposed spending parameters are both
11 within the revenue envelope that's sent out
12 through the revenue letter in consistency with
13 the fiscal plan.

14 Q And specifically, what do you look at to
15 determine the consistency with the fiscal plan?

16 A We would look at the budget documents that are
17 submitted and oftentimes something called the
18 Savannah file, which is just a very
19 detailed-level spending allocation that the
20 government proposes.

21 Q You mean the what? Savannah file?

22 A Yes. It's an Excel document.

23 Q It's like a schedule?

24 A Yeah, a schedule of spending.

25 Q Yes. I know what you mean by Savannah, by the

1 way. It's very local here.

2 So in those documents that you review,
3 would you take -- would you see the different
4 types of revenue streams that are included
5 within a budget before it's finalized?

6 A No, I would not.

7 Q So you only see the total amount of revenues?
8 That's all you see?

9 A No. I would not see revenues at all. It's a
10 spending -- it's a spending plan.

11 Q You only see the spending part of the budget?

12 A That's correct. The budget is -- it's an
13 expense -- it is an expense plan. There is no
14 revenue component.

15 Q All right. So you don't --

16 So the government's budget does not have a
17 revenue component?

18 A The budget is a spending plan, and so we're just
19 looking at whether the totals of that spending
20 plan are consistent with the revenue envelope
21 that was sent out in the revenue letter from the
22 oversight board.

23 And that revenue letter for this year's
24 budget, as an example, has one line -- not even
25 one line, one number for total spending for the

1 general fund, and so --

2 Q Have you ever seen the complete budget for the
3 government of Puerto Rico?

4 MR. MERVIS: Object to the form of the
5 question.

6 BY MR. GARCIA:

7 Q Have you seen it?

8 A I've seen the certified budgets, yes.

9 Q What do those certified budgets include?

10 MS. DeCAMP: Object.

11 A They include -- the certified budgets include
12 the spending allocations by agency.

13 BY MR. GARCIA:

14 Q Only the spending allocations?

15 A To the best of my recollection, yes, only the
16 spending allocations.

17 Q Do you assist the FOMB in its review of the
18 budgeting process at the Puerto Rico
19 legislature?

20 A EY -- EY does, yes.

21 Q Who at EY?

22 A It varies, but typically it's myself, Juan
23 Santambrogio, and Sophia Panagiotakis.

24 Q Okay. I'm now referring to yourself as a
25 principal of EY. Okay?

1 Do you assist the FOMB in its review of the
2 budget process within the Puerto Rico
3 legislature?

4 A Over which time period? You mean the most
5 current year? Past years? What?

6 Q Let's say the last four years, since you've been
7 employed at EY.

8 A I have, yes.

9 Q Okay. And what is your role in helping the FOMB
10 with the review of those budgets?

11 A So my personal --

12 Q By the way -- strike that.

13 I'm not talking about the certified budgets
14 of the fiscal board. I'm talking about the
15 government budget as it's going through the
16 legislative process before the Puerto Rico
17 legislation.

18 Do you understand the explanation to my
19 question?

20 A I do.

21 Q All right. So now I'm going to ask you what is
22 your role in that process?

23 A My role is to oversee the team that is
24 evaluating in collaboration, frankly, with the
25 oversight board staff, both the documentation

1 and the spending parameters that are submitted
2 by the government.

3 Q Okay. And in that role, you see the spending
4 parameters; correct?

5 A The proposed spending parameters, correct.

6 Q Do you also see revenue parameters?

7 A No, not generally. The revenue parameter is set
8 by the revenue letter that's issued by the
9 oversight board.

10 Q So when the Puerto Rico legislature puts
11 together a budget, it plugs in a number from the
12 certified board, from the FOMB, and then it
13 works on the spending side. Is that what you're
14 telling me?

15 MR. MERVIS: Objection to the form.

16 MS. DeCAMP: Objection.

17 You can answer.

18 A To the best of my knowledge, generally that's
19 the case. I could not tell you for certain. I
20 could not tell you for certain. But that is how
21 it should work.

22 BY MR. GARCIA:

23 Q What is the last budget of the Puerto Rico
24 government, the Commonwealth government that you
25 saw?

1 A I don't recall off the top of my head. I
2 believe there were submissions at different
3 points in time during this year's budget
4 process.

5 Q Okay. So let's refer to this year's budget
6 process.

7 When was the budget for this year, this
8 fiscal year, approved by the Puerto Rico
9 legislature? Do you know?

10 A The date it was approved?

11 Q Yeah, more or less.

12 A I believe they certified a budget --

13 Actually, I don't recall the specific date.

14 Q Do you --

15 A It was in late June, I recall, but I don't
16 recall the specific date.

17 Q Do you know --

18 Do you know what the fiscal year of the
19 Puerto Rico government is?

20 A This fiscal year?

21 Q Do you know what the fiscal year, when does it
22 run from, to, in the case of the Puerto Rico
23 fiscal year?

24 A The Puerto Rico fiscal year runs from July 1 to
25 June 30.

1 Q So isn't it correct that a budget for the
2 Puerto Rico government's fiscal year needs to be
3 approved before the start of the fiscal year;
4 isn't that correct?

5 MS. DeCAMP: Objection.

6 You can answer.

7 A A budget needs to be certified by the oversight
8 board before the beginning of the fiscal year.

9 BY MR. GARCIA:

10 Q I'm not talking about the role of the fiscal
11 board in certifying. I'm asking you about your
12 knowledge.

13 You just indicated that the Puerto Rico
14 fiscal year runs from July 1 to June 30, and I'm
15 asking you a straightforward question.

16 Do you know whether the Puerto Rico
17 government budget needs to be approved before
18 the start of the Puerto Rico fiscal --
19 Puerto Rico government fiscal year?

20 MS. DeCAMP: Objection.

21 You can answer.

22 A To the best of my knowledge, yes, the budget
23 needs to be approved prior to the commencement
24 of the next fiscal year.

25

1 BY MR. GARCIA:

2 Q Okay.

3 So, in other words, the work on the budget
4 needs to happen before the commencement of the
5 following fiscal year; correct?

6 A That's correct. Yes.

7 Q And were you involved in the process of review
8 of the budget process of the Puerto Rico
9 legislature -- Puerto Rico government prior to
10 its approval on or about June 30?

11 A Me personally, you mean?

12 Q You personally, yes.

13 A I personally was somewhat involved.

14 Q Okay. So what was your involvement?

15 A Primarily overseeing the team, the development
16 of some of the materials that we shared with our
17 client in the production of those documents.

18 Q So what were those documents that you oversaw
19 the development or the production of?

20 A There's a -- there's an actual budget
21 presentation, like a PowerPoint-type
22 presentation, explaining the components of the
23 budget. There's the certified resolutions
24 themselves and associated components within the
25 certified resolutions.

1 So there are -- there's a lot of control
2 language that goes into the budget.

3 Q Okay. So when you say "a budget presentation
4 that has the different components," what are
5 those components?

6 A Well, it just described --

7 If it's -- the document I'm thinking of is
8 a document used in one of the public board
9 meetings where Executive Director Jaresko
10 explained, you know, what was within that
11 budget.

12 Q Again, I ask the question: What are the
13 components that are included in that budget
14 presentation?

15 A It includes different cuts, if you will, of the
16 spending breakdown of the government.

17 Q Does that presentation include anything on
18 revenue?

19 A To the best of my recollection, it does not.

20 Q And again, I'm referring to the Puerto Rico
21 legislative process to enact the budget, not the
22 certification by the board but just the
23 Puerto Rico legislative process. That's what
24 I'm referring to.

25 A Okay. Sorry. Maybe I misunderstood the

1 question.

2 Q So when I asked the question about what
3 documents in that legislative process to put
4 together the budget you saw or you worked with,
5 you indicated a budget presentation.

6 Was that a budget presentation for the
7 Puerto Rico legislature?

8 A No, it was not. I apologize. I was referring
9 to ultimately the budget that was certified by
10 the oversight board at the end of the process.

11 Q Okay. Well, that's fine, but that's not what
12 I'm referring to.

13 I know what a certified budget by the board
14 is. I'm looking at the Puerto Rico legislative
15 process for the preparation of a budget. Okay?

16 I'm going to ask you the question again
17 because you may have been referring to the
18 certification process. So I'll ask you, what
19 involvement, if any, you had with respect to
20 that process?

21 MR. MERVIS: Objection to the form.

22 A The best of my recollection, I was not involved
23 in the direct legislative negotiations that the
24 Puerto Rico legislature had internally.

25 EY and my involvement was more around the

1 proposed budget that the legislature wanted to
2 evaluate whether or not that was consistent with
3 the fiscal plan.

4 BY MR. GARCIA:

5 Q Okay. And in evaluating whether the proposed
6 budget was consistent with the fiscal plan, what
7 documents did you see related to the budget?

8 A The proposed spending allocations.

9 Q So you only looked at the proposed spending
10 allocations?

11 A Correct, yes.

12 Q And you never looked at the expense side? you
13 yourself?

14 A I apologize. You have to help me understand the
15 difference between spending and expenses.

16 Q I'm sorry. I'm sorry. I misspoke.

17 The revenue side of the budget.

18 A Correct. The budget itself is a spending --
19 it's a spending document. It's not a revenue
20 document.

21 Q The Puerto Rico budget only includes the
22 spending side?

23 A To the best of my recollection, yes, that's
24 correct.

25 Q So, in other words, under oath, you're

1 testifying here today that the budget prepared
2 by the Puerto Rico legislature only includes a
3 spending side?

4 MS. DeCAMP: Objection.

5 You can answer.

6 A The revenue is set through the revenue letter
7 that's issued by the oversight board at the
8 beginning of the budgeting process. That's the
9 revenue that I'm aware of that's used as the
10 envelope of total spending.

11 The process the legislature undertakes is
12 to set a spending plan of expenditures
13 consistent with -- that should be consistent
14 with that revenue envelope that's set by the
15 oversight board.

16 BY MR. GARCIA:

17 Q So your testimony is that the Puerto Rico
18 legislature has absolutely no role in
19 determining what revenues are going to go into
20 the budget?

21 MS. DeCAMP: Objection.

22 BY MR. GARCIA:

23 Q Is that your testimony?

24 You can answer.

25 A My testimony is that the revenues that are used

1 for the budgeting process each year are defined
2 under PROMESA, under Section 202, and that
3 process defines that the oversight board is the
4 one to send a revenue letter defining the
5 spending -- or defining the revenue envelope
6 from which the government can allocate spending.

7 Q So if I were to go and look at a Puerto Rico
8 government budget, I would see a revenue letter
9 and a spending budget? That's what you're
10 telling me?

11 MR. MERVIS: I object.

12 MS. DeCAMP: Objection.

13 A I can only speak to the certified budget that
14 you would see, and if you look at the certified
15 budget, you would see a spending parameter
16 defined by agency.

17 BY MR. GARCIA:

18 Q I'm going to ask you the question again.

19 Have you ever looked at a Puerto Rico
20 government budget approved by the legislature of
21 Puerto Rico?

22 A Yes, I have.

23 Q Can you tell me what that looks like.

24 A This year's budget was approved by the
25 Puerto Rico legislature, and that is a very

1 lengthy document that lists out different levels
2 of spending for different agencies, in a fair
3 amount of detail, actually.

4 Q And it only has the different levels of
5 spending? It doesn't have a revenue side other
6 than the revenue letter that comes from the
7 fiscal board? That's your testimony?

8 A To the best of my recollection, that is correct.
9 The certified budget and the budget passed by
10 the legislature this year lists out all of the
11 spending by agency in a fair amount of detail.

12 Q Are you aware of any requirement that the budget
13 of the government of Puerto Rico be a balanced
14 budget?

15 MS. DeCAMP: Objection.

16 But you can answer.

17 A I'm aware of the need for the budget to be
18 consistent with the fiscal plan, and that's the
19 approach that the review has taken.

20 BY MR. GARCIA:

21 Q Sir, do you know what a balanced budget is?

22 A It depends on what you mean by "balanced
23 budget."

24 Q Do you know what it is? What a balanced budget
25 is? I'm not asking --

1 I'm not asking you about the certified
2 budget by the fiscal board.

3 Do you know what a balanced budget is for a
4 government?

5 MS. DeCAMP: Objection.

6 You can answer.

7 A It depends on what you mean. So it's not clear
8 to me whether you mean on an accrual --

9 BY MR. GARCIA:

10 Q What do you understand --

11 MR. MERVIS: Arturo, he hadn't finished his
12 answer.

13 A You know, it's not clear to me -- when you say
14 "balanced budget," there's a lot of different
15 meanings to that. I don't know whether you mean
16 on an accrual basis, on a cash basis, what
17 specifically you mean by "balanced budget."

18 BY MR. GARCIA:

19 Q I'm asking you whether you know if the
20 Puerto Rico government budget needs to be a
21 balanced budget?

22 MR. MERVIS: Object to the form.

23 MS. DeCAMP: Objection.

24 A All I know is that the budget that can be
25 certified by the oversight board needs to be

1 consistent with the fiscal plan.

2 BY MR. GARCIA:

3 Q I'm going to have to take a break here, sir.

4 The videographer --

5 Justin, can we take a ten-minute break.

6 THE VIDEOGRAPHER: We'll go off the record
7 at 2:07.

8 (A recess was taken.)

9 THE VIDEOGRAPHER: Back on the record at
10 2:19.

11 MR. GARCIA: So, Mr. Cepeda, I'm going to
12 ask you to put back on the screen the subpoena
13 for the deposition today. I believe it was
14 Exhibit 1.

15 BY MR. GARCIA:

16 Q Do you see the document on the screen now?

17 A I do.

18 Q You saw that document earlier today when we were
19 starting the deposition; correct?

20 A Correct, yes.

21 Q I'm going to ask you to take a look at Topic
22 Number 2, and that topic reads:

23 "Whether or not the Commonwealth had a
24 balanced budget for each fiscal year from 2016
25 to the present, including any efforts undertaken

1 by FOMB to determine whether or not the
2 Commonwealth had a balanced budget for each of
3 those fiscal years."

4 Do you see that?

5 A I do.

6 Q I'll first ask you how did you prepare to answer
7 questions with respect to this particular topic
8 of the subpoena?

9 A I had a number of conversations with counsel and
10 with my team trying to better understand what it
11 could mean.

12 Q What what was?

13 A What could be meant by this -- by this topic
14 because, to me, it's actually not very clear.

15 Q So what's your understanding of the topic? your
16 general understanding of the topic?

17 A Well, I'm not entirely sure. That's why I was
18 asking whether you meant a balanced budget on an
19 accrual basis, on a cash basis, and what
20 specifically you mean by a "balanced budget."

21 You know, where I settled in my preparation
22 for this deposition is that you meant -- you
23 meant -- actually, I wasn't sure whether you
24 meant on an accrual or a cash basis. It was one
25 of the clarifying questions I was hoping you

1 could answer for me.

2 Q Go ahead.

3 A Under both cases, though, I don't believe that
4 the Commonwealth had a balance -- has had a
5 balanced budget for each fiscal year from
6 fiscal '16 to the present.

7 Q So that is either a balanced budget in either
8 scenario that you mentioned?

9 A Accrual?

10 Q Correct.

11 A On an accrual basis or on a cash basis.

12 Q Or on a cash basis.

13 So your testimony is that the Commonwealth
14 had -- you understand the Commonwealth does not
15 have a balanced budget on -- for any year from
16 2016 to the present under either an accrual
17 basis or under a cash basis?

18 MS. DeCAMP: Objection.

19 BY MR. GARCIA:

20 Q You can answer.

21 MS. DeCAMP: You can answer --

22 You can answer from --

23 A Yeah.

24 MS. DeCAMP: -- whatever year after EY
25 became engaged to do work for the board forward.

1 A Yeah, that's actually what I was going to say.
2 I can't say with any certainty for fiscal '16 or
3 fiscal '17, but as it relates to fiscal '18,
4 '19, '20, and '21 and '22, the five years in
5 which the oversight board has been constituted
6 to review and certify budgets and in which EY
7 was engaged, during those years, under PROMESA,
8 the budgets most certainly have not been
9 balanced on an accrual or even on a cash basis.

10 BY MR. GARCIA:

11 Q Okay. And can you tell me why they have not
12 been balanced under either an accrual or a cash
13 basis?

14 A Certainly.

15 Q Please do.

16 A Well, for one matter, debt service is not being
17 paid on the central government's debt. We're
18 operating in a Title III framework.

19 So not all expenses, particularly debt
20 service, are being paid, and that would be a
21 requirement for you to have either an accrual or
22 a cash-based balanced budget.

23 Q Any other reason why any of those budgets for
24 the last four years has not been balanced,
25 either on the actuarial basis or the cash basis?

1 A That's the primary reason that I can think
2 about.

3 Q All right. But could there be any other reason,
4 aside from the primary one on the debt service?

5 A There are other expenses that potentially could
6 not be paid in which case those would -- those
7 would be also sort of accrued balances that are
8 due to be budgeted and paid but are not being
9 budgeted and paid.

10 Q Do you recall any of those types of expenses?

11 A There isn't one that particularly comes to mind,
12 but I can think, you know, historically
13 vendor -- vendor payments is fairly typical
14 where those may not -- those accrued payments to
15 providers of services to the government were not
16 budgeted, would be an example.

17 Q Okay. And for any one of those four years, '18,
18 '19, '20, '21, where you've been engaged to EY
19 to work with the Commonwealth -- I'm sorry --
20 with the FOMB, and the FOMB has been in place in
21 Puerto Rico, do you know whether the budgets
22 were balanced at the beginning of the year --

23 A So --

24 Q -- fiscal year -- of each fiscal year?

25 A Again, even though -- the budgeting process is

1 under PROMESA, in which EY was engaged, is
2 actually straightforward. It's a fairly
3 straightforward process. And that process takes
4 the revenue envelope from the fiscal plan and
5 allocates, based on the government's spending
6 parameters, spending along that revenue
7 envelope.

8 Ultimately, the budget that's certified by
9 the oversight board is a budget that has
10 expenditures that are consistent and in line
11 with that revenue envelope.

12 So I -- you know, to the best of my
13 knowledge, under no circumstances would any of
14 those budgets have been balanced at the
15 beginning of the year, again, because debt
16 service is not being paid, and you have to
17 budget for debt service for you to have a
18 balanced budget on either an accrual or on a
19 cash basis.

20 Q But for each one of those four budgets, again,
21 '18, '19, '20, '21, there was not an allocation
22 for payment of the debt service; correct?

23 A That is correct. For the central government,
24 there was not an allocation for debt service.

25 Q So in that respect, Mr. Chepenik, was the

1 balance -- in light of the fact that the budget
2 did not call for payment of the debt service,
3 was the -- was the budget balanced at the
4 beginning of the year?

5 MS. DeCAMP: Objection. Asked and
6 answered.

7 BY MR. GARCIA:

8 Q Was it balanced?

9 MS. DeCAMP: You can answer.

10 A I think, if I can sort of take a little bit of
11 latitude here, and tell me if I'm wrong, but I
12 think the word "balanced" is incorrect.

13 What I would say is that the expenses that
14 were budgeted for equal the revenue envelope
15 that's designated by the oversight board.

16 The revenues and the budgeted expenses are
17 equal, but under no circumstances, on an accrual
18 base or on a cash basis, were those budgets
19 balanced at the beginning of the year, middle of
20 the year, or end of the year.

21 BY MR. GARCIA:

22 Q And the reason for that is that there was no
23 allocation for the payment of debt service?

24 A That's the primary reason, correct.

25 Q Correct. All right.

1 So my question was based on there being no
2 allocation for payment of debt service. It was
3 not included as an expense on the budget; right?

4 A (Nods head.)

5 Q You have to answer verbally.

6 A Correct. For the central government, that is
7 correct.

8 Q So at least at the beginning of the year,
9 because there was no particular expense for the
10 payment of debt service, deal debt service, the
11 budget that was approved would have been
12 balanced with respect to revenues and expenses?

13 MS. DeCAMP: Objection.

14 BY MR. GARCIA:

15 Q You can answer.

16 A I apologize, but I would not say it was
17 "balanced," which is the word I think you're
18 emphasizing.

19 What I would say is that the expenses that
20 were budgeted equaled the revenue envelope. But
21 equal -- having those two -- having revenues and
22 expenses equal each other in this context, under
23 PROMESA, does not mean that it's a balanced
24 budget.

25 It's not because there was no allocation

1 for GO debt service. There is an obligation
2 that is still accruing to be paid, but it is not
3 being budgeted to be paid. That's why it's not
4 balanced on an accrual basis.

5 Q So you're now giving me your legal opinion?

6 A No.

7 MS. DeCAMP: Objection.

8 MR. MERVIS: Objection.

9 BY MR. GARCIA:

10 Q Because I didn't ask for your legal opinion.

11 MS. DeCAMP: Objection. It wasn't a legal
12 opinion.

13 MR. GARCIA: All right. Well, his
14 understanding then. That's okay.

15 BY MR. GARCIA:

16 Q So did you meet with anybody at the FOMB to
17 prepare for this particular topic in the list of
18 topics for examination?

19 MR. MERVIS: Objection to the form.

20 A When you say "meet with anyone at the FOMB," do
21 you mean --

22 BY MR. GARCIA:

23 Q Did you meet with anyone to prepare for this
24 particular topic?

25 MR. MERVIS: Same objection.

1 A I met with the people that I mentioned at the
2 beginning to talk through all of the topics
3 except for Topic Number 1.

4 BY MR. GARCIA:

5 Q So only lawyers from Proskauer?

6 A I also have met with my team.

7 Q Yes.

8 A EY.

9 Q But at the FOMB, did you meet with anybody in
10 particular at the FOMB, not lawyers from
11 Proskauer, to prepare for this topic?

12 A If you mean oversight board staff --

13 Q Yes.

14 A -- or oversight board members?

15 Is that what mean?

16 Q Oversight board members. Let's start with
17 those.

18 Did you meet with any oversight board
19 members to prepare for this topic?

20 A Not that I remember, no.

21 Q Did you meet with Natalie Jaresko to prepare for
22 this topic?

23 A No.

24 Q Did you meet with any other oversight board
25 staff to prepare for this topic?

1 A No, not that I remember.

2 Q Your testimony is that you did not meet with
3 anybody from the oversight board to prepare for
4 this topic; correct?

5 MR. MERVIS: Objection.

6 A You know, that's correct. I mean I met with the
7 Proskauer team, and I met with my team.

8 BY MR. GARCIA:

9 Q So only your team and the Proskauer team?

10 A Correct.

11 Q Okay.

12 Do you know whether anybody at the FOMB
13 would have knowledge about this particular
14 topic?

15 MS. DeCAMP: Objection.

16 BY MR. GARCIA:

17 Q I'm not talking about Proskauer.

18 Anybody -- any board member, executive
19 director, or staff of the FOMB would have
20 knowledge about this topic?

21 MS. DeCAMP: Objection.

22 You can answer.

23 A I am not aware of what the oversight board,
24 staff, or board members may or may not know on
25 this topic.

1 BY MR. GARCIA:

2 Q So the answer is you don't know?

3 A The answer is I am not aware of what they may or
4 may not know.

5 Q Did you try to determine whether anybody at the
6 FOMB would have knowledge on this topic to meet
7 with them to prepare for today?

8 A I'm sorry. Can you repeat the question.

9 MR. GARCIA: Can I have it read back,
10 please.

11 (The requested text was read by the
12 reporter.)

13 A No, I did not.

14 BY MR. GARCIA:

15 Q There's a second part to this second topic after
16 the word "to the present," and I quote:

17 "Including any efforts undertaken by FOMB
18 to determine whether or not the Commonwealth had
19 a balanced budget for each of those fiscal
20 years."

21 Do you see that language?

22 A Yes.

23 Q So did you meet with anybody at the FOMB, either
24 members, the director, or staff, to prepare for
25 this topic?

1 A To the best of my recollection, I did not, no.

2 Q Did you try to determine whether anybody at the
3 FOMB, either at the level of the board members
4 or the director or staff, had any particular
5 knowledge that they could convey to you in
6 preparing for the deposition today?

7 A Sorry. Can you repeat that question one more
8 time?

9 MR. GARCIA: Yes.

10 Can I have it read back, please.

11 (The requested text was read by the
12 reporter.)

13 A To the best of my recollection, I -- no.

14 BY MR. GARCIA:

15 Q Okay. Let's go to Topic Number 3.

16 Do you see that?

17 A Yes.

18 Q Okay. And that reads:

19 "Whether or not the available revenues of
20 the Commonwealth were insufficient to meet the
21 appropriations for each fiscal year from 2016 to
22 the present, including any efforts undertaken by
23 the FOMB to determine whether available revenues
24 of the Commonwealth were insufficient."

25 I'm going to modify this question to --

1 this topic to make it 2018 onward; so 2018,
2 2019, '20, and '21, the four years you've been
3 employed with EY that the FOMB has been around.

4 (Reporter request for clarification.)

5 MR. GARCIA: And the four years that the
6 FOMB has been around.

7 BY MR. GARCIA:

8 Q Okay. So that's my modification to the topic,
9 just to account for the fact that you, nor the
10 FOMB, were here since 2016. Okay?

11 So do you know --

12 Did you meet with anybody from the FOMB at
13 the level of members, the executive director, or
14 staff to prepare for Topic Number 3?

15 A To the best of my recollection, no.

16 Q Did you do anything to try to determine whether
17 anyone at the FOMB, again, at the level of the
18 board members, director, or the staff, would
19 have any knowledge to help you prepare for the
20 deposition today?

21 A The best of my recollection, no.

22 Q With respect to that question, Mr. Chepenik,
23 what, if anything, is your understanding
24 regarding the language:

25 "Available revenues of the Commonwealth

1 were insufficient to meet the appropriations for
2 each fiscal year, 2018 to 2021"?

3 Do you have an understanding of that?

4 A I was actually going to ask you a question about
5 the term "available revenues" because I did not
6 see them defined as one of the definition terms
7 in the subpoena.

8 Can you just clarify what you mean by
9 "available revenues" for me?

10 Q Sure.

11 Revenues are available for the payment of
12 expenses in a budget. It's a pretty broad
13 definition.

14 A I apologize to ask for some more specificity;
15 however, I think it would be helpful if you have
16 specific revenues in mind that are considered as
17 available revenues.

18 Q It's all available revenues in Puerto Rico.

19 A Okay. My understanding is you would be
20 referring to all revenues that are projected in
21 the fiscal plan, and if that's -- if that's
22 correct, then I would say that available
23 revenues are insufficient to meet all of the
24 needs of the government. That's why the
25 government's in bankruptcy in Title III.

1 Q What is the basis for your understanding?

2 A I think expenses are -- total expenses exceed
3 the available revenues.

4 Q Are you familiar with the clauses of the
5 Puerto Rico Constitution in Article VI,
6 Sections 7 and 8, that have to do with balanced
7 budgets?

8 MS. DeCAMP: Objection. Outside the scope.

9 BY MR. GARCIA:

10 Q Are you familiar?

11 A Not particularly. I'm not, no.

12 Q Have you ever reviewed the Puerto Rico
13 Constitution as part of your work at EY for the
14 FOMB?

15 A To the best of my recollection, no.

16 Q All right. I'm going to ask you to look at
17 Topic Number 4. I'm just going to read it for
18 the record while you review it.

19 The topic reads, and I quote:

20 "Whether or not any revenues of the
21 Commonwealth were diverted, retained,
22 reallocated, or redirected in order for there to
23 be sufficient available revenue to meet the
24 appropriations made for each fiscal year
25 from" --

1 -- modification --

2 -- "2018 to the present, including any
3 efforts undertaken by FOMB to evaluate the
4 amounts of revenues to divert, retain,
5 reallocate, or redirect."

6 Do you see that?

7 A Yes, I do.

8 Q Did you meet with anybody at the FOMB, either at
9 the level of the board members, director, or
10 staff, to prepare for this topic?

11 A To the best -- or staff --

12 To the best of my recollection, no, I did
13 not.

14 Q Did you undertake any effort to determine
15 whether anybody at the FOMB would have
16 information to help you prepare for this topic
17 in the notice?

18 A When you say "at the FOMB," do you mean the
19 board members, executive director, or the staff?

20 Q That's correct, yes.

21 A In that case, no, to the best of my knowledge
22 and recollection, I did not.

23 Q So again, I guess -- I'm not going to guess.
24 Strike that.

25 Your testimony would be that you met with

1 your team members and attorneys from Proskauer?

2 A Correct.

3 Q Okay.

4 A In preparation for this deposition.

5 Q Yes.

6 A Correct.

7 Q Okay.

8 Do you mean --

9 Do you know what it means when revenues are
10 diverted? Do you have any understanding of
11 that?

12 MS. DeCAMP: Objection.

13 MR. MERVIS: Objection to the form.

14 MS. DeCAMP: You can answer.

15 BY MR. GARCIA:

16 Q You can answer.

17 A I do not have -- a personal view? I do not have
18 a personal view on what that means --

19 Q Okay.

20 A -- in the context of this question.

21 Q Do you have any personal understanding of what
22 "retained" means in that topic?

23 A I do not have a personal view on the word
24 "retained" in this context.

25 Q What about "reallocated"?

1 A No. I do not have a personal view on what that
2 term means in this context.

3 Q What about "redirected"?

4 A In this context, I do not have a personal view.

5 Q Are you familiar with the word "clawback"?

6 A I am, yes.

7 Q What is your understanding of "clawback"?

8 A It means -- it's a defined term in the subpoena
9 so --

10 Q So what is your understanding of "clawback," if
11 any?

12 MS. DeCAMP: Objection.

13 BY MR. GARCIA:

14 Q You can answer.

15 A If it relates to -- I mean, it's a defined term
16 in the subpoena. It relates to --

17 It relates to certain types of public
18 funds.

19 Q That's what states -- that's what's stated in
20 the subpoena. I'm asking whether you have an
21 understanding about what "clawback" means.

22 MS. DeCAMP: Objection. Outside the scope.

23 BY MR. GARCIA:

24 Q Do you have an understanding?

25 MR. MERVIS: Objection.

1 MS. DeCAMP: Objection.

2 BY MR. GARCIA:

3 Q You can answer if you have an understanding.

4 A I don't have a particular understanding, no.

5 Q And if I were to ask you the same question with
6 respect to retention of funds, would I get the
7 same answer from you?

8 You don't have an understanding, or do you?

9 MS. DeCAMP: Object to the form.

10 A So the question here is in the context of the
11 disbursement of payments; right?

12 BY MR. GARCIA:

13 Q Yes.

14 A And it sort of mischaracterizes the budgeting
15 process, which is what I'm familiar with. And
16 the budgeting process takes the revenues from
17 the fiscal plan, sets a revenue envelope, and
18 that revenue envelope is used to establish the
19 spending parameters that the government uses to
20 set its budget that the board ultimately
21 certifies.

22 There's no -- there's no --

23 In the context of this question, there's
24 no -- there's no way to differentiate between
25 the different revenues that are used for those

1 expenditures and, therefore, to know what funds
2 are diverted, retained, reallocated, or
3 redirected.

4 It's not -- the revenue envelope is just --
5 it's just pulled from the fiscal plan revenue
6 parameters; so that's why it's hard for me to
7 answer with more specificity for you.

8 Q Well, thank you for your answer. That was not
9 my question, but I appreciate your answer
10 anyway.

11 I was referring, really, to your
12 understanding of "clawback" or retention of
13 funds by the -- in the context of this topic in
14 the deposition notice. That's what I was
15 referring to.

16 Do you have any understanding of that? of
17 what that means?

18 A I don't know a personal point of view of what
19 that term implies, no.

20 Q So sitting here today, your testimony is that
21 you do not have an understanding of what a
22 "clawback of funds" means?

23 MS. DeCAMP: Objection.

24 MR. MERVIS: Objection.

25 A My testimony is that I don't have a particular

1 distinct point of view on the topic.

2 BY MR. GARCIA:

3 Q Have you heard the word "clawback" before in any
4 context?

5 A I have.

6 THE WITNESS: Can we actually take a
7 five-minute break? Is that possible?

8 MR. GARCIA: Sure. We're in the middle of
9 a question. I would appreciate if you answer
10 this question, and then we can go to the break.

11 MR. MERVIS: What is it?

12 MR. GARCIA: Can I have it read back.

13 (The requested text was read by the
14 reporter.)

15 BY MR. GARCIA:

16 Q So before we take the five-minute break, you
17 said, yes, you have. And can you tell me what
18 you have -- what your understanding of
19 "clawback" is? of a "clawback"?

20 MR. MERVIS: Objection.

21 BY MR. GARCIA:

22 Q You can answer.

23 A Clawback -- I think it just relates to the
24 conditionally allocable revenues that are in the
25 fiscal plan. It's relating to those revenue

1 streams.

2 Q And again, can you explain for the record what
3 you mean with respect to the conditional
4 allocable funds with respect to the clawback?
5 Can you explain it to me?

6 A So there are a series of revenues that are
7 forecasted as part of the fiscal plan, and there
8 are different revenue streams. So there's a
9 revenue stream around a portion of the --

10 (Reporter request for clarification.)

11 A So you're asking what are the conditionally
12 allocable revenues?

13 Q How do those relate to the claw-back concept
14 that you described before? That's my question.

15 A So the conditionally allocable revenues are the
16 revenue streams that are forecasted in the
17 fiscal plan that I believe are commonly referred
18 to as the "claw-back funds."

19 And you asked what those specific revenues
20 were, or did you have a different question?

21 Q I asked what your understanding was as the
22 clawback referred to the conditionally allocated
23 funds.

24 A So my understanding is it refers to those
25 revenues in the fiscal plan, those particular

1 revenue streams.

2 Q And are some of those revenues -- based on the
3 discussion we had before, and then we'll
4 break -- related to some of the taxes that were
5 in Acts 30 and 31 like cigarette tax, petroleum
6 tax, gasoline tax, and the rest?

7 A The revenues under Act 30 and 31, yeah, I do
8 believe are included as conditionally allocable
9 revenues in the fiscal plan, yes.

10 Q So to that extent, they would have been
11 claw-back funds; correct?

12 A Yes. I believe that those fall into the
13 category of --

14 Q Okay.

15 A -- claw-back funds.

16 MR. GARCIA: We can take the five-minute
17 break now. Sorry. I went on for a little
18 longer, but we were in the middle of a topic.

19 Thank you.

20 THE VIDEOGRAPHER: We'll go off at 2:49.

21 (A recess was taken.

22 THE VIDEOGRAPHER: We are back on the
23 record at 2:56.

24 MR. GARCIA: Okay. Can you put the
25 Exhibit A to the subpoena back on the record,

1 back on the ShareFile screen. Sorry.

2 Yes, Exhibit A.

3 BY MR. GARCIA:

4 Q Do you see a document on the screen?

5 A Yes, I do.

6 Q I want you to take a look at Topic Number 5,
7 which is the last one that we haven't yet
8 discussed, and that reads, while you read it to
9 yourself, I quote it:

10 "The amounts of claw-back funds disbursed
11 for uses other than the payment of general
12 obligation debt for each fiscal year from
13 2016" --

14 -- which I'm now modifying to 2018 --

15 -- "to the present, including any efforts
16 undertaken by the FOMB to evaluate the amounts
17 of claw-back funds to disburse for uses other
18 than the payment of general obligation debt."

19 Do you see that?

20 A Yes.

21 Q In connection with that specific topic,
22 Mr. Chepenik, did you meet with anybody at the
23 FOMB, whether at the level of member, director,
24 or staff, to prepare for this particular topic?

25 A In preparation for my deposition? Not to the

1 best of my knowledge, no.

2 Q Did you do anything to try to determine whether
3 anybody at the FOMB would have been able to
4 assist you in preparing for this topic? By
5 that, I mean members, the director, or staff.

6 A To the best of my recollection, no.

7 Q All right. I'll ask you do you have any
8 knowledge of whether the claw-back funds, as we
9 identified them just prior to going into the
10 break, have been used to pay GO debt service?

11 A From fiscal '18 onward?

12 Q That's correct.

13 A I'm not aware of the claw-back funds or any
14 funds, for that matter, being used to pay GO
15 debt service.

16 Q During that time period, has any GO debt service
17 been paid, to your knowledge?

18 A The only GO debt service that I believe might
19 have been paid would have been insured debt
20 service.

21 Q When you say "insured debt service," what do you
22 mean by that?

23 A So GO debt, that would have been wrapped by the
24 monoline bond insurers, it is possible that that
25 debt was paid.

1 Q Do you have any recollection of what that amount
2 would have been?

3 A I do not.

4 Q The payment?

5 A I do not have knowledge.

6 Q And do you have any knowledge as to when that
7 payment may have been made?

8 A I do not have any direct knowledge. I imagine
9 it would have been around the semiannual payment
10 dates. It's around -- it's in the summertime
11 and in the wintertime. It's either December,
12 January, and June or July each year.

13 Q So every semester of every year?

14 A If it was paid, I imagine that would have been
15 the case, but again, I'm not positive.

16 Q You're not positive whether they were paid?

17 A I just have no personal knowledge about those
18 payments.

19 Q Okay. Do you know whether any claw-back funds
20 were transferred back to HTA?

21 MR. MERVIS: Objection to the form.

22 BY MR. GARCIA:

23 Q You can answer.

24 A I think I mentioned earlier I'm not aware of any
25 instance of any claw-back funds being used for

1 any purpose other than that one instance in 2019
2 I mentioned to you at the outset.

3 Q So that would include no -- you don't know
4 whether any of those claw-back funds would have
5 been transferred back to HTA?

6 MR. MERVIS: Objection.

7 A I am not aware of any instance of claw-back
8 funds being used for any purpose other than that
9 one special resolution in 2019.

10 Again -- I think I explained this
11 earlier -- it sort of mischaracterizes the
12 process, the budgeting process.

13 The revenue envelope is set from revenues
14 drawn from the fiscal plan. It doesn't
15 distinguish -- in this budget year, for
16 instance, that revenue letter does not
17 distinguish what funds are being used. It's a
18 pool of cash, a pool of revenue that can be used
19 to fund expenditures.

20 MR. GARCIA: I'm going to ask my colleague,
21 Mr. Cepeda, to bring one last document to the
22 screen.

23 BY MR. GARCIA:

24 Q Do you recall that this morning, you mentioned
25 that you had signed a declaration in the PROMESA

1 case at some point before you started to prepare
2 for this deposition; correct?

3 A Correct.

4 Q All right.

5 MR. GARCIA: Can you put the document on
6 the screen.

7 (Deposition Exhibit 7 was presented for
8 identification.)

9 BY MR. GARCIA:

10 Q Do you see a document now on the screen?

11 A I do, yes.

12 Q It's been marked as Exhibit 7 for the
13 deposition.

14 Have you seen this document before?

15 A I have, yes.

16 Q Is this the declaration that you were referring
17 to in earlier testimony during the morning
18 session that you had given?

19 A It is, yes.

20 Q Okay. I want you to go to paragraph Number 4.

21 Do you see that paragraph?

22 A I do.

23 Q You can read it to yourself. I will quote the
24 language for the record:

25 "I am familiar with the analysis made to

1 arrive at the 1.67 billion figure in Exhibit K.
2 Specifically, I reviewed the referenced statutes
3 to understand the mathematical formulas
4 described therein, and then applied those
5 formulas to the revenue sources identified, to
6 estimate how much those specific appropriations
7 would have been in Fiscal Year '19. The
8 \$1.67 billion figure for Fiscal Year '19
9 referenced in Exhibit K does not include all
10 revenues historically appropriated by the
11 Commonwealth on an annual basis, including to
12 the Commonwealth's instrumentalities and does
13 not include any of the revenues set forth in the
14 HTA allocable revenue statutes or other clawback
15 statutes with respect to CCDA and PRIFA."

16 Do you see that language?

17 A I do.

18 Q That is your declaration; correct?

19 A It is, yes.

20 Q Can you please explain to me what you mean by
21 the third sentence.

22 MR. GARCIA: Mr. Cepeda, can you highlight
23 it, the one that starts with:

24 "The \$1.67 billion figure."
25

1 BY MR. GARCIA:

2 Q Can you explain to me what you meant by that
3 sentence in your declaration.

4 A As I recall, this was in relation to
5 Commonwealth statutes that were -- the
6 allocations within those statutes.

7 The appropriations were different than what
8 historically had been appropriated, and I was
9 asked to help calculate what that value would
10 have been if PROMESA was not in effect and the
11 revenues appropriated had not been subject to
12 the budgeting process under PROMESA.

13 Q Okay. When you say "subject -- would not have
14 been subject to the budgeting process under
15 PROMESA," what do you mean?

16 A I mean, where -- the process under Section 202
17 of PROMESA where the expenses are set in
18 conformance with the revenue envelope for the
19 government.

20 So where the oversight board sets out
21 that -- the revenue parameters drawn from the
22 fiscal plan, and then the government produces a
23 budget within those parameters.

24 Q Okay. And specifically, towards the end of that
25 sentence, it says, and I quote:

1 "Does not include any of the revenues set
2 forth in the HTA allocable revenue statutes or
3 other claw-back statutes with respect to CCDA
4 and PRIFA."

5 What do you mean by that sentence or phrase
6 in that sentence?

7 A I filed this declaration quite some time ago; so
8 to the best of my recollection, this was
9 referring to what was embedded within the
10 1.67 billion figure.

11 Q Again, when you say "does not include any of the
12 revenues set forth in the HTA allocable revenue
13 statutes," what do you mean by that?

14 A I mean that those amounts are not included in
15 the 1.67 billion figure.

16 Q And why were not included in the \$1.67 billion
17 figure?

18 A I do not recall.

19 Q This is your declaration, and it's dated
20 April 28, '20; right?

21 A Yes. It was some time ago. Yeah.

22 Q It's not that long ago.

23 You have no recollection of why you said
24 that in your declaration, Mr. Chepenik?

25 MS. DeCAMP: Objection. Argumentative.

1 BY MR. GARCIA:

2 Q You can answer.

3 MS. DeCAMP: You can answer.

4 A I do not recall.

5 BY MR. GARCIA:

6 Q I'm going to ask you to look at Exhibit K.

7 Exhibit K is titled "Schedule of Preempted
8 Statutes," Exhibit K to your declaration.

9 Can you tell me what that means, "schedule
10 of preempted statutes"?

11 A To the best of my recollection, this refers to a
12 series of statutes, Puerto Rico law-based
13 statutes that are preempted by PROMESA.

14 Q Who gave you this list?

15 A I do not recall.

16 Q Is this a list that you compiled?

17 A I do not -- I do not recall.

18 Q So you do not recall whether you put this list
19 together?

20 A I do not. I do not recall.

21 Q I asked you to go to page K-3, under Roman
22 Numeral II.

23 Do you see it?

24 A I do.

25 Q It states:

1 "Statutes appropriating Commonwealth
2 revenues."

3 Do you see that?

4 A I do.

5 Q All right. So what do you mean by
6 "appropriating Commonwealth revenues"?

7 MR. MERVIS: Objection to the form.

8 BY MR. GARCIA:

9 Q You can answer.

10 A So to the best of my recollection, this refers
11 to statutes that appropriated revenues
12 historically.

13 Q Okay. What do you mean -- if you can explain it
14 to me -- this is an exhibit used for your
15 declaration -- what you meant by
16 "appropriating"?

17 MR. MERVIS: Same objection.

18 BY MR. GARCIA:

19 Q You can answer.

20 A I don't recall. Appropriating would have meant
21 the -- what's the best way to describe it?

22 Appropriating would have meant, you know,
23 the issuance of revenues.

24 Q Issuance of revenues? Is that what you said?

25 A Yeah. The issuance of revenues or the raising

1 of revenues.

2 Q Okay. All right.

3 So when you say "issuance of revenues or
4 raising of revenues," what do you mean by that?

5 A So just under Puerto Rico statute, you can pass
6 a law that raises revenues --

7 Q Okay.

8 A -- use revenues.

9 Q So is that what we call the "revenue bill"?

10 MR. MERVIS: Objection to the form.

11 A I believe you could call it a "revenue bill,"
12 yes.

13 BY MR. GARCIA:

14 Q To your knowledge, is a revenue bill the same as
15 an appropriation bill?

16 MS. DeCAMP: Objection.

17 What topic do all these questions relate
18 to?

19 MR. GARCIA: They relate to questions,
20 including Question Number 6 and some others.

21 A A revenue bill is not always the same as an
22 appropriation bill. No.

23 BY MR. GARCIA:

24 Q So how are they different, in your
25 understanding?

1 A Well, a revenue bill is a bill that raises
2 revenue, and an appropriations bill is a bill
3 that appropriates revenue.

4 Q What do you mean by "appropriates revenue"?

5 A That appropriates spending of some form.

6 Q Okay.

7 So a revenue bill, in your understanding,
8 is a bill that raises revenue; correct?

9 A Typically that's correct, yes.

10 Q And an appropriations bill is a bill that
11 appropriates revenue to a given spending; is
12 that correct?

13 A Not necessarily, no.

14 Q So for specific spending purposes; is that
15 correct?

16 A Not necessarily.

17 Q Okay. Give me your understanding again, please.

18 A For an appropriation bill?

19 Q Yeah.

20 A Yeah. An appropriation bill is generally an
21 allocation of appropriations. It could be for a
22 specific purpose or not. It's not -- doesn't
23 necessarily need to be defined.

24 Q But an appropriation would be for something
25 that's going to be spent; is that correct?

1 A Typically an appropriation would be, yeah, for
2 an appropriation.

3 Q An appropriation would be an appropriation, but
4 I still don't understand what you're trying to
5 tell me.

6 You just said -- and I can have it read
7 back -- "an appropriation would be an
8 appropriation," but what does that mean?

9 A It depends on --

10 MR. MERVIS: Hold on. Objection to the
11 form.

12 BY MR. GARCIA:

13 Q You can answer.

14 A It depends on the --

15 It depends on the statute. So you can have
16 very common -- very commonly, you know,
17 legislatures would pass an appropriation bill
18 that, say, you know, is for the general, you
19 know, use and purpose of that government. It
20 doesn't necessarily need to be for a specific
21 purpose.

22 Q Okay. You see the first category under Roman
23 Numeral II? You see it there?

24 A I do, yes.

25 Q That's HTA; correct?

1 A It does. Yes.

2 Q Do you recall whether those three statutes --
3 any of those three statutes mentioned there are
4 Acts 30 or 31?

5 A I do not recall.

6 Q All right. Take a look at Number 2.

7 You see the bracketed language at the end
8 of the citation to the statute? Do you see
9 that?

10 A I do.

11 Q It says:

12 "Gas oil, diesel oil, and petroleum
13 products."

14 Right?

15 A It does.

16 Q Does that refresh your recollection as to
17 whether that may be one of the statutes we
18 discussed earlier today?

19 MR. MERVIS: Objection to the form.

20 A It's possible that that's referring to Act 31.
21 I just -- I'm not sure. I didn't look back at
22 that prior to the deposition.

23 BY MR. GARCIA:

24 Q So you see Number 3?

25 A I do.

1 Q And you see the bracket language, "cigarette
2 tax"?

3 A I do.

4 Q Does that refresh your recollection as to
5 whether it's part of 30 or 31?

6 A It does not.

7 As I said previously, it could mean -- that
8 local Puerto Rico Act reference, the statutory
9 reference could mean Act 30, but I don't know
10 for certain. I did not review this in
11 preparation for my declaration or my deposition.

12 Q Then okay.

13 Number 1, take a look at the bracketed
14 language at the end:

15 "Motor vehicle license fees."

16 Do you see that?

17 A I do.

18 Q Does that refresh your recollection as to
19 whether that would be either Act 30 or 31?

20 MR. MERVIS: Objection to the form.

21 BY MR. GARCIA:

22 Q You can answer.

23 A It does not.

24 Q It does not.

25 So when we were talking earlier about motor

1 vehicle license fees in the context of Act 30,
2 do you remember that conversation we had?

3 A I do. I just don't know whether -- these
4 statutory references refer to Act 30 or 31
5 specifically, or in this case, under Number 1,
6 Act 9.

7 I don't recall because I did not review
8 this declaration in preparation for my
9 deposition.

10 Q Mr. Chepenik, during any of the breaks either
11 this morning or this afternoon, did you speak
12 with your counsel about the testimony that we
13 were discussing?

14 MS. DeCAMP: That's a "Yes" or "No"
15 question.

16 A Yes.

17 BY MR. GARCIA:

18 Q And did you speak with counsel for the FOMB?

19 MR. MERVIS: Objection to the form.

20 BY MR. GARCIA:

21 Q Did you speak with counsel for the FOMB?

22 A Antoinette.

23 MS. DeCAMP: You can answer "Yes" or "No."
24 "Yes" or "No."

25 A Yes.

1 BY MR. GARCIA:

2 Q Is counsel for the FOMB your counsel?

3 MR. MERVIS: Objection to the form.

4 MS. DeCAMP: Objection to the form.

5 BY MR. GARCIA:

6 Q Is counsel for the FOMB your counsel?

7 MS. DeCAMP: You can answer if you know.

8 A I do not recall.

9 BY MR. GARCIA:

10 Q You do not recall.

11 Who is your counsel for purposes of this
12 deposition today?

13 MS. DeCAMP: Objection. We answered these
14 questions at the start.

15 MR. GARCIA: I'm trying to refresh his
16 recollection because I don't think he remembers.

17 BY MR. GARCIA:

18 Q Can you answer the question.

19 A So my counsel, as an affiliate of EY, is
20 Ms. DeCamp.

21 Q All right.

22 A My understanding -- let me finish.

23 My understanding is there's a stipulation
24 agreement as it relates to Mr. Mervis and
25 Proskauer as well.

1 I've not seen that stipulation; so I'm not
2 entirely clear about that component.

3 Q But my question to you is very simple. For
4 purposes of this deposition today, is Mr. Mervis
5 your counsel?

6 MR. MERVIS: Object to the form.

7 BY MR. GARCIA:

8 Q You can answer.

9 A I --

10 Q It's a "Yes" or "No" question.

11 MR. MERVIS: No, it's not. Object to the
12 form.

13 A I cannot answer that question with certainty.

14 BY MR. GARCIA:

15 Q Why can't you answer with certainty?

16 MS. DeCAMP: Objection.

17 You can answer.

18 BY MR. GARCIA:

19 Q Well, I'm trying to --

20 Yeah, you can answer.

21 A Because I have not seen the stipulation
22 agreement that the parties agreed to in
23 connection with this deposition.

24 Q It doesn't have anything --

25 My question doesn't have anything to do

1 with the stipulation agreement, Mr. Chepenik.
2 My question is simply a question of fact;
3 whether, for purposes of this deposition today,
4 Mr. Mervis was acting as your counsel.

5 MR. MERVIS: I object to the form of the
6 question.

7 BY MR. GARCIA:

8 Q You can answer.

9 A I unfortunately cannot give you a "Yes" or "No"
10 answer without consulting with my counsel.

11 Q Can you please --

12 We're going to go off the record, and
13 you're going to consult with your counsel,
14 Antoinette DeCamp, so that you can answer my
15 question.

16 Okay?

17 So let's take a two-minute break?

18 MS. DeCAMP: Wait. Can I ask you a
19 question?

20 So you want him to consult with me and then
21 to relay the results of a privileged
22 consultation on the record in this deposition?

23 MR. GARCIA: No. What I'm asking him is
24 whether he understands --

25 He just said that in order to answer my

1 question, he needs to consult with you. And the
2 question is whether Mr. Mervis was his counsel
3 for purposes of this deposition. That's the
4 question.

5 I don't understand that to be a privileged
6 question. I'm only asking --

7 MR. MERVIS: Why does it matter?

8 MR. GARCIA: -- an issue of fact whether
9 Mr. Mervis is his counsel for the deposition.

10 MR. MERVIS: But that's the problem. It is
11 not an issue of fact; it's an issue of law.

12 Why does it matter who he thinks the lawyer
13 is?

14 BY MR. GARCIA:

15 Q Do you need to consult with your --

16 MR. GARCIA: I'm not going to engage in a
17 debate, Michael.

18 MR. MERVIS: You're entitled not to. It
19 just doesn't make any sense.

20 MR. GARCIA: All right. Well, it doesn't
21 to you, but I'm not going to engage in a debate
22 with you.

23 BY MR. GARCIA:

24 Q Do you need to consult with your counsel,
25 Ms. DeCamp?

1 MS. DeCAMP: Let's consult, Adam.

2 MR. GARCIA: All right. Two minutes to
3 consult.

4 MR. MERVIS: It may take more than two
5 minutes.

6 MR. GARCIA: Well, I don't think his --

7 MR. MERVIS: That depends on the witness
8 and Ms. DeCamp; right?

9 MR. GARCIA: All right.

10 MS. DeCAMP: He said he may need to consult
11 with his counsel. You can't put a time limit on
12 that. Thank you.

13 MR. GARCIA: So Justin.

14 THE VIDEOGRAPHER: If we all agree, I will
15 go off the record at 3:19.

16 (A recess was taken.)

17 THE VIDEOGRAPHER: Back on the record at
18 3:23.

19 BY MR. GARCIA:

20 Q All right. So, Mr. Chepenik, I'm going to ask
21 you whether during the morning and the afternoon
22 session, right before the one break we had now,
23 whether you met or discussed anything with
24 Antoinette DeCamp during any one of the breaks
25 outside from the last one?

1 MS. DeCAMP: It's a "Yes" or "No."

2 MR. MERVIS: Can you say that -- I don't
3 understand.

4 Objection to form.

5 MS. DeCAMP: It's a "Yes" or "No" question.

6 A Yes.

7 BY MR. GARCIA:

8 Q You did. All right.

9 And I'm going to ask you now: What was the
10 subject of those discussions?

11 MS. DeCAMP: I mean, I am going to object.
12 What is the --

13 I do not want him to get into any
14 privileged conversations that he had with me
15 during the break.

16 MR. GARCIA: Ms. DeCamp, as you know, the
17 witness was under oath.

18 MS. DeCAMP: Correct.

19 MR. GARCIA: He was in the middle of a
20 deposition.

21 MS. DeCAMP: Correct.

22 MR. GARCIA: Whatever he discussed with
23 anybody during the break is not a privileged
24 conversation, especially since he's under oath.

25 So I'm entitled -- I am entitled for him to

1 tell me what he discussed with you during any
2 break in the middle of the deposition while he
3 was under oath, and that's my question.

4 MS. DeCAMP: I don't agree with that,
5 particularly in the context of a 30(b)(6)
6 deposition where you are not -- you're asking
7 for the collective testimony of Ernst & Young,
8 which can come from his personal knowledge or
9 the collective knowledge of anybody else that
10 has knowledge about Ernst & Young.

11 I do not agree that if I -- that -- if I
12 permit him to answer the question, I want your
13 stipulation that that is not a waiver of any
14 privilege.

15 MR. GARCIA: Well, I disagree with you as
16 to whether the conversation he may have had with
17 you during the break is a privileged
18 conversation.

19 I do not agree with you and your
20 understanding of what the rules are for purposes
21 of a witness who is under oath in a deposition
22 in the middle of the deposition. So I don't
23 agree with you on that. Okay?

24 And because I don't agree with you on that,
25 I cannot stipulate to the issue because I don't

1 think there is any privilege to be waived during
2 a discussion with the witness during a break in
3 the deposition.

4 Are you going to instruct him not to
5 answer?

6 MS. DeCAMP: I'm going to instruct him not
7 to answer as to any details of what we may or
8 may not have discussed during the break.

9 You can discuss --

10 If there is a way to answer the question at
11 a high level, similar to what would be on a
12 privilege log, which is basically who you talked
13 to and the 30,000-foot-level subject, you can
14 disclose that.

15 MR. GARCIA: Again, I don't agree with your
16 understanding of the privilege, but I will take
17 the answer, reserving all my rights.

18 BY MR. GARCIA:

19 Q Mr. Chepenik, can you answer the question?

20 A What is the specific question?

21 Q The question is whether during any of the breaks
22 during the deposition, while you were under
23 oath, you had any discussions with Ms. DeCamp.

24 MR. MERVIS: Didn't he already answer that?

25 A Yes.

1 BY MR. GARCIA:

2 Q Yes.

3 And the question is what were those
4 discussions about?

5 MR. MERVIS: Well, I --

6 So let me just make an objection.

7 To the extent that Proskauer attorneys were
8 involved in communications during breaks with
9 the witness and Ms. DeCamp, our view is that
10 those conversations are immune from discovery
11 because they constitute the board's work
12 product.

13 I can't exactly instruct the witness not to
14 answer, but I would ask Ms. DeCamp to instruct
15 him not to answer.

16 MR. GARCIA: Well, again --

17 MS. DeCAMP: Excuse me. Given that
18 Proskauer has an interest in preserving its own
19 privilege, and in order to not waive any
20 privilege or protection that might be asserted
21 by Proskauer, I will instruct you, Adam, not to
22 answer questions about the subjects of what we
23 discussed during any breaks.

24 MR. GARCIA: Right.

25 Let me state for the record that I disagree

1 with Ms. DeCamp's interpretation of the
2 privilege for purposes of discussions occurring
3 during breaks, but with respect to the objection
4 that was raised by Mr. Mervis, the objection is
5 even stronger. Okay?

6 Mr. Mervis was not the attorney defending
7 during the deposition, and I don't believe that
8 the privilege or even work product attaches in
9 the way that Mr. Mervis is mentioning for the
10 record.

11 So I will reserve all rights with respect
12 to recalling the witness to ask any particular
13 questions while he was under oath in the middle
14 of testimony, sometimes in topics that were
15 continuing on after the break, conversations
16 that we had with either Ms. DeCamp or
17 Mr. Mervis.

18 So again, I'm asking you, Ms. DeCamp,
19 you're instructing him not to answer my
20 question?

21 MS. DeCAMP: Correct.

22 BY MR. GARCIA:

23 Q Are you going to refuse to answer my question
24 based on the instruction given by your counsel?

25 A Are you directing that question to me?

1 Q Yes.

2 A I cannot answer that question.

3 Q You cannot what?

4 MS. DeCAMP: I think he was answering your
5 prior question; so could you repeat --

6 Adam, I think Mr. Garcia's question to you
7 was: Are you going to follow my instruction to
8 you not to answer the question?

9 A Yes, I'm going to follow the advice of counsel.

10 MR. GARCIA: All right. Again, I will
11 reserve all rights. That will include possibly
12 recalling the witness for further testimony on
13 the issue of whatever discussions he may have
14 had with either of you during the breaks while
15 he was under oath and being questioned about
16 specific topics in the deposition.

17 I personally do not have any further
18 questions.

19 And with that, Taleah, are you --

20 MR. MERVIS: Arturo, just so we're clear, I
21 note your reservation of rights. The board
22 reserves its rights.

23 If you have authority to support your
24 position, you should provide us with it during a
25 meet-and-confer. If we're not able to resolve

1 it, then we can make a motion.

2 MR. GARCIA: Well, when we have to, we'll
3 meet and confer on that, but at this moment, I'm
4 not going to engage in --

5 MR. MERVIS: Yeah. I wasn't asking you to.
6 But you made a speech; so I made a speech back.

7 MR. GARCIA: Okay. All right.

8 So anyway, at this moment, I don't have any
9 further questions. I am going to pass the baton
10 onto my colleague from Schulte, who represents
11 the collateral monitor here, who may have other
12 questions of the witness.

13 Taleah?

14 MS. JENNINGS: Thank you, Arturo. I do
15 have some questions.

16 CROSS-EXAMINATION,

17 QUESTIONS BY TALEAH E. JENNINGS:

18 Q Good afternoon, Mr. Chepenik.

19 (A discussion was held off the record to
20 correct technical issues.)

21 Q Mr. Chepenik, since you've been working at EY
22 with the FOMB, have you had direct contact with
23 any members of the oversight board?

24 A In connection with my deposition?

25 Q No. Just period.

1 A Yes, I have.

2 Q Who?

3 A I can name them but all of the board members.

4 Q And can you estimate about how frequently you've
5 spoken to anyone on the oversight board? any
6 members of the oversight board?

7 Is it on a daily basis? Is it on a weekly
8 basis?

9 MR. MERVIS: Sorry. Just note my objection
10 to the form.

11 A I would say not in connection with this
12 deposition preparation, just in general, in my
13 role with EY, I have, I would say, interactions
14 with the board members on a weekly basis.

15 BY MS. JENNINGS:

16 Q Anyone in particular? Any particular members
17 that you meet with more regularly than others or
18 interact with more regularly than others?

19 A From the board members themselves? I wouldn't
20 say that I meet with one board member more
21 frequently than others.

22 If -- if you mean the board staff, then I
23 would say I certainly meet with the Executive
24 Director Natalie -- or speak with the Executive
25 Director Natalie Jaresko on a more frequent

1 basis.

2 Q When's the last time you spoke with Ms. Jaresko?

3 A You mean just in general?

4 Q Period. Last time you spoke with her.

5 A Yesterday.

6 Q And before that?

7 A I speak with the executive director on --
8 multiple times a day, typically.

9 Q I see.

10 Have you ever spoken with Ms. Jaresko at
11 any point in time regarding whether or not the
12 Commonwealth had a balanced budget for Fiscal
13 Years 2018 through the present?

14 MR. MERVIS: Note my objection to the form.

15 A To the best of my recollection, we have never
16 had that specific conversation.

17 BY MS. JENNINGS:

18 Q Do you know what the FOMB's knowledge is
19 regarding whether or not the Commonwealth had a
20 balanced budget for the Fiscal Years 2018
21 through 2020?

22 MR. MERVIS: Object to the form.

23 A I don't have any particular knowledge about what
24 their views may or may not be as it pertains to
25 being a balanced budget or not.

1 BY MS. JENNINGS:

2 Q I'm not necessarily saying their views. My word
3 was about their "knowledge."

4 A I provide the same answer. I'm not familiar
5 with what their knowledge may or may not be.

6 Q And you said that with regard to the testimony
7 you provided, EY has no knowledge about whether
8 the Commonwealth had a balanced budget for
9 Fiscal Years 2016 and 2017; correct?

10 A Correct. EY was not engaged, and the oversight
11 board did not exist.

12 Q And so EY is not best situated to answer
13 questions regarding whether or not the
14 Commonwealth had a balanced budget during those
15 years; correct?

16 MR. MERVIS: Object to the form.

17 MS. DeCAMP: Objection.

18 THE WITNESS: Can I answer that,
19 Antoinette?

20 MS. DeCAMP: You can answer.

21 BY MS. JENNINGS:

22 Q Yes.

23 A Can you repeat the question one more time?

24 Q Yes.

25 Ernst & Young is not best situated to

1 answer questions regarding whether or not the
2 Commonwealth had a balanced budget during
3 2016 -- Fiscal Years 2016 and 2017; correct?

4 MR. MERVIS: Object to the form.

5 A I would say EY does not have a point of view or
6 a perspective on whether the budgets were
7 balanced in those years.

8 BY MS. JENNINGS:

9 Q So is your answer to my question --
10 What is your answer to my question?

11 MR. MERVIS: Object to the form.

12 A I do not believe we have knowledge of whether
13 those budgets were balanced or not.

14 BY MS. JENNINGS:

15 Q And do you know whether the FOMB has knowledge
16 about whether the budgets were balanced for
17 those fiscal years or not?

18 MS. DeCAMP: Objection.

19 You can answer.

20 A The FOMB was not in existence at that time; so
21 I'm not --

22 BY MS. JENNINGS:

23 Q That's not my question.

24 My question is do you know whether --

25 MR. MERVIS: Hold on, Taleah. You cut him

1 off. You've got to let him finish.

2 BY MS. JENNINGS:

3 Q Oh, I thought you answered my question.

4 MR. MERVIS: Yeah, he did.

5 BY MS. JENNINGS:

6 Q Okay.

7 A No. I was trying to say the FOMB was not in
8 existence at that time; so I'm unaware of what
9 knowledge they have as it relates to those
10 budgets being balanced in 2016 or 2017.

11 Q Okay. That's why --

12 That wasn't the answer to my question; so
13 let me ask you the question again.

14 Do you know whether the FOMB has knowledge,
15 not whether they existed at the time, but
16 whether they have knowledge about whether the
17 budgets were balanced for the Commonwealth for
18 Fiscal Years 2016 and 2017?

19 Do you know if the FOMB has knowledge of
20 that?

21 MS. DeCAMP: Objection.

22 You can answer.

23 A I -- to the best of my knowledge, I do not have
24 knowledge about whether they have knowledge
25 about the --

1 BY MS. JENNINGS:

2 Q Thank you. We're understanding each other now.

3 MR. MERVIS: There's a lot of knowledge
4 going on.

5 BY MS. JENNINGS:

6 Q You testified that you met with Proskauer in
7 preparation for your testimony today.

8 Did Proskauer attorneys provide you with
9 any information to help you testify as to
10 whether or not the Commonwealth had a balanced
11 budget for Fiscal Years 2018 through the
12 present?

13 The answer is --

14 Well, the first question is a "Yes" or "No"
15 question. Did they provide you with any
16 information?

17 A To the best of my recollection, no.

18 Q And did anyone --

19 Are you aware --

20 Did anyone from Proskauer inform you that
21 Ms. Jaresko is the most knowledgeable person on
22 the oversight board to answer questions about
23 whether or not the Commonwealth had a balanced
24 budget for Fiscal Years 2016 through the
25 present?

1 MR. MERVIS: Sorry. Can I ask the reporter
2 to read that question back.

3 (The requested text was read by the
4 reporter.)

5 MR. MERVIS: Okay. So I think that that
6 could invade attorney work product, but if
7 you'll agree, Taleah, that it's not -- that
8 there's no waiver beyond that question, I'm
9 happy to have him answer just to speed this up
10 and move it along.

11 MS. JENNINGS: I think for now, with regard
12 to that specific question, I can agree to that.

13 MR. MERVIS: Okay.

14 A To the best of my recollection, no, nobody
15 stated that to me.

16 BY MS. JENNINGS:

17 Q What is the FOMB's knowledge regarding any
18 efforts undertaken by the FOMB to determine
19 whether or not the Commonwealth had a balanced
20 budget for Fiscal Years 2016 through 2020?

21 MS. DeCAMP: Objection.

22 You can answer.

23 A I can only speak to what EY's knowledge is in
24 preparation of the budget each year. I am
25 unaware of what knowledge the FOMB has.

1 BY MS. JENNINGS:

2 Q That's because you haven't spoken to anyone at
3 the FOMB at any time, not even in connection
4 with preparation for this deposition, but at any
5 time regarding what efforts were undertaken by
6 the FOMB to determine whether or not the
7 Commonwealth had a balanced budget for Fiscal
8 Years 2016 through 2020; is that correct?

9 MS. DeCAMP: Objection.

10 You can answer.

11 A Well, certainly I think there's a
12 differentiation between Fiscal Years '16 and '17
13 versus the other fiscal years, since the board
14 has been in existence and been responsible for
15 certifying budgets each year, but I did not
16 speak -- I did not speak with the oversight
17 board about it being a balanced budget. That's
18 not really how the budgeting process works under
19 PROMESA.

20 BY MS. JENNINGS:

21 Q When you say there's a differentiation between
22 the Fiscal Years '16, '17, and the others,
23 that's not true with regard to my question;
24 right?

25 My question was have you spoken to anyone

1 at the FOMB regarding what efforts were
2 undertaken by the FOMB to determine whether or
3 not the Commonwealth had a balanced budget for
4 Fiscal Years 2016 through 2020 --

5 MR. MERVIS: So --

6 BY MS. JENNINGS:

7 Q Let me just finish my question.

8 MR. MERVIS: I jumped the gun. I
9 apologize.

10 BY MS. JENNINGS:

11 Q If I'm understanding your previous answer
12 correctly, the answer to that is no --
13 correct? -- you have not spoken to anyone at the
14 FMOB about that?

15 MR. MERVIS: Object to the form.

16 BY MS. JENNINGS:

17 Q You can answer.

18 A To the best of my recollection, no, I have not
19 spoken to them about that.

20 Q And during your meetings with Proskauer in
21 connection with preparing to testify today, did
22 they provide you any information relating to any
23 efforts undertaken by the oversight board to
24 determine whether or not the Commonwealth had a
25 balanced budget for each fiscal year from 2016

1 through the present?

2 Did they provide you any information
3 regarding that topic?

4 MR. MERVIS: Note my objection to the form.

5 A To the best of my recollection, no.

6 BY MS. JENNINGS:

7 Q And did anyone from Proskauer inform you that
8 Ms. Jaresko was the most knowledgeable person at
9 the oversight board to answer questions
10 regarding that topic?

11 MS. DeCAMP: Objection.

12 You can answer.

13 MR. MERVIS: So I guess I'm not sure that's
14 different than the one you asked before, but in
15 any event, I'm okay with him answering that
16 question, notwithstanding that it could
17 potentially invade work product, if you'll agree
18 that it's not a waiver as to any other question
19 or answer.

20 MS. JENNINGS: With regard to this specific
21 question?

22 MR. MERVIS: Yeah.

23 MS. JENNINGS: Yes.

24 MR. MERVIS: Okay.

25 MS. JENNINGS: I'm not trying to invade the

1 privilege or be sneaky about it. I just --

2 MR. MERVIS: No, no. Again, until he
3 answers, I don't know. I don't want to have to
4 go offline and confer with him. Maybe the
5 reporter could just read it back.

6 (The requested text was read by the
7 reporter.)

8 THE WITNESS: Can I answer?

9 BY MS. JENNINGS:

10 Q Yes.

11 A To the best of my recollection, no.

12 Q What is the FOMB's knowledge about whether or
13 not available revenues of the Commonwealth were
14 insufficient to meet the appropriations for each
15 Fiscal Year 2018 through the present?

16 A I'm unaware of what the FOMB's knowledge is on
17 that topic.

18 Q And that's because you have not spoken to anyone
19 at the FOMB about that topic at any time;
20 correct?

21 A Can you actually reread, not the last question,
22 but the second-to-last question?

23 Q Sure.

24 MS. JENNINGS: Ms. Court Reporter, can you
25 please read that.

1 (The requested text was read by the
2 reporter.)

3 MS. JENNINGS: And the answer?

4 (The requested text was read by the
5 reporter.)

6 BY MS. JENNINGS:

7 Q And then my next question was: And that's
8 because you have not spoken to anyone at the
9 FOMB about that topic at any time; is that
10 correct?

11 MS. DeCAMP: Objection.

12 You can answer.

13 A I do not recall having a recent discussion with
14 anyone around available revenues. But the
15 question reminded me of what I had answered
16 earlier around 2019 and the special resolution
17 that was certified by the oversight board.

18 It's possible that some discussions
19 happened in 2019, but I do not recall the
20 details of those conversations.

21 BY MS. JENNINGS:

22 Q And you've provided several hours of testimony
23 today already. None of your testimony was
24 reliant upon what you just identified may have
25 been discussed in 2019; is that right?

1 A That's correct.

2 Q And with regard to that, this same issue whether
3 or not revenues were insufficient to meet the
4 appropriations for these fiscal years, you have
5 no knowledge --

6 (Reporter request for clarification.)

7 Q Sure. With regard -- I should have the topics
8 in front of me or in front of you -- but with
9 regard to the topic that we're on now, whether
10 or not available revenues of the Commonwealth
11 were insufficient to meet the appropriations for
12 each fiscal year from 2016 through the present,
13 you have no knowledge on that issue with regard
14 to Fiscal Year 2016 or 2017; correct?

15 When I say "you," I mean as the EY 30(b)(6)
16 witness.

17 A That is correct.

18 Q You didn't do anything to try to find that
19 information out; correct?

20 A In preparation for the deposition? I did not.

21 Q And with regard to this same topic, whether or
22 not available revenues of the Commonwealth were
23 insufficient to meet the appropriations for each
24 fiscal year, limit it to 2018 through the
25 present, did anyone from Proskauer provide you

1 with any information to help you prepare to
2 testify on that topic today?

3 MR. MERVIS: Note my objection to the form.

4 A To the best of my recollection, no.

5 BY MS. JENNINGS:

6 Q And are you aware that Proskauer has
7 represented -- withdrawn.

8 Did Proskauer --

9 Did any Proskauer attorneys represent --
10 inform you that Ms. Jaresko is the individual --
11 the most knowledgeable person at the oversight
12 board to answer questions regarding whether or
13 not available revenues of the Commonwealth were
14 insufficient to meet the appropriations for each
15 fiscal year from 2016 through the present?

16 MR. MERVIS: I have a concern that the
17 answer to that question might invade the
18 oversight board's work product, but, Taleah, if
19 you will agree that in allowing him to answer
20 that question, there is not a waiver beyond the
21 question and the answer, then I'll let him
22 answer.

23 MS. JENNINGS: Can I just understand what
24 the work product issue is? Because I may be
25 able to dispel that, but I just don't

1 understand --

2 MR. MERVIS: Well, the short answer is,
3 look, first of all, I have no idea whether
4 anybody at Proskauer told him that. I know I
5 didn't but others might have.

6 MS. JENNINGS: All right.

7 MR. MERVIS: Secondly, if someone did, I
8 don't know the context; right?

9 So without knowing the context of the
10 conversation, I can't say whether it's a work
11 product issue or just like a scheduling issue or
12 any kind of issue. I don't know.

13 So what I'm trying to avoid is taking the
14 time to go off the record to consult with the
15 witness about something that may not even be an
16 issue.

17 So that's the best I can give you.

18 MS. JENNINGS: So without --

19 Yes. I'm not trying to get into work
20 product by answering this question. I will
21 not --

22 We will not take the position that you're
23 waiving any privilege.

24 BY MS. JENNINGS:

25 Q But my question is did any Proskauer attorneys,

1 during your preparation sessions, inform you
2 that Ms. Jaresko is the most knowledgeable
3 person at the oversight board to answer
4 questions regarding whether or not available
5 revenues of the Commonwealth were insufficient
6 to meet the appropriations for each fiscal year
7 from 2016 through the present?

8 THE WITNESS: I can answer?

9 MR. MERVIS: Yeah.

10 BY MS. JENNINGS:

11 Q Yes.

12 MS. DeCAMP: You can answer.

13 A To the best of my recollection, no, nobody
14 mentioned that to me. Nobody at Proskauer.

15 BY MS. JENNINGS:

16 Q And other than anyone at Proskauer, did anyone
17 ever mention that to you?

18 A To the best of my recollection, no, no one has
19 ever mentioned that to me.

20 Q What is the FOMB's knowledge regarding any
21 efforts undertaken by the FOMB to determine
22 whether available revenues of --

23 That's withdrawn, actually.

24 MR. MERVIS: I was going to say I've not
25 heard that acronym said that way. I don't know

1 that I like it.

2 MS. JENNINGS: I may have another slip, but
3 let's keep going.

4 BY MS. JENNINGS:

5 Q What is the FOMB's knowledge about whether or
6 not any revenues of the Commonwealth were
7 diverted, retained, reallocated, or redirected
8 in order for there to be sufficient available
9 revenue to meet the appropriations made for each
10 fiscal year from 2016 through the present?

11 MS. DeCAMP: Objection.

12 You can answer.

13 A I'm not aware of what the knowledge of the FOMB
14 might be on that matter.

15 BY MS. JENNINGS:

16 Q And you did not try to speak to anyone at the
17 FOMB to gain that understanding; correct? to
18 gain their understanding?

19 A That's correct.

20 Q Did any Proskauer attorney during your
21 preparations provide you with any information to
22 help you prepare -- to help you testify about
23 this topic?

24 MR. MERVIS: Note my objection to the form.

25 A Not that I recall.

1 BY MS. JENNINGS:

2 Q How many prep sessions did you have where
3 Proskauer participated for this deposition?

4 A I recall three.

5 Q And how many prep sessions did you have in full,
6 in total, for this deposition?

7 A Between I would say ten and twelve.

8 Q And during those --

9 During the sessions where Proskauer was in
10 attendance, did they provide you with any
11 information?

12 I know I asked about specific areas, but
13 did they provide you with any information during
14 those prep sessions?

15 MR. MERVIS: Sorry. Objection to form.

16 A Generally, those sessions were general
17 deposition preparation, since I had not -- I had
18 not been deposed prior to this experience, and
19 trying to help me better understand the
20 questions that were being -- that were being
21 asked of EY to respond to because I felt they
22 needed some additional clarity to be able to
23 provide specific answers to those questions.

24 BY MS. JENNINGS:

25 Q Did they provide you some clarity with regard to

1 what the questions meant?

2 A They tried, but I wouldn't say it was
3 information that was provided to me.

4 I had the same question that I asked
5 Mr. Garcia earlier about whether -- you know, on
6 it being a balanced budget, if we thought that
7 they came out on an accrual or a cash basis and
8 technical sort of clarifications like that.

9 MS. JENNINGS: Michael, that's not a good
10 look for you.

11 MR. MERVIS: I'm trying to make sense of
12 what's --

13 BY MS. JENNINGS:

14 Q But I'll just ask is there anything else? Were
15 there any other clarifications that they tried
16 to help you with?

17 A Not in particular, that I recall. This was --

18 The subpoena came to EY in connection with
19 the work that EY conducted; so I'm familiar
20 already, generally speaking, with EY's work
21 product on that.

22 So for me, it was refreshing my
23 recollection around our team's work in support
24 of the oversight board as opposed to Proskauer
25 informing me or providing information to me in

1 connection with responses.

2 Q So they did not provide you with any information
3 other than what you just discussed regarding
4 clarification in connection with preparing to
5 testify today?

6 A Not -- nothing of consequence, that I can
7 recall.

8 Q I was going to say maybe I should be more
9 specific.

10 With regard to the topics in which you are
11 testifying today?

12 A Nothing in particular comes to mind.

13 Q And did anyone from Proskauer provide you
14 information regarding the stipulation agreement
15 that you were referring to earlier?

16 MR. MERVIS: I ask on that one that the
17 answer be, at least to that one, "Yes" or "No."

18 A No.

19 BY MS. JENNINGS:

20 Q What is the FOMB's knowledge about any efforts
21 undertaken by the FOMB to evaluate the amounts
22 of revenues to divert, retain, reallocate, or
23 redirect?

24 MS. DeCAMP: Objection.

25 You can answer.

1 A I am not aware of the FOMB's knowledge on that
2 topic. I also don't know whether, you know,
3 they would describe -- use the terms that you
4 use to begin with.

5 BY MS. JENNINGS:

6 Q You don't know one way or the other?

7 A I'm not aware of their knowledge.

8 Q And that's because you haven't spoken to anyone
9 at the FOMB about that topic; correct?

10 I don't mean just in connection with your
11 preparation but period.

12 A Not that I can recall.

13 MR. MERVIS: Can I take a 30-second break?

14 MS. JENNINGS: Sure.

15 MR. MERVIS: Great. Sorry.

16 THE REPORTER: Are we going off the record?

17 MS. JENNINGS: It looks like maybe not.

18 MR. MERVIS: I apologize. I was dealing
19 with a filing deadline on something else.

20 MS. JENNINGS: That's okay.

21 Let me refresh my recollection of where we
22 were.

23 BY MS. JENNINGS:

24 Q Mr. Chepenik, you did not do anything to try to
25 find out what the FOMB's knowledge is with

1 regard to any efforts undertaken by them to
2 evaluate the amounts of revenues to divert,
3 retain, reallocate, or redirect; is that
4 correct?

5 A To the best of my recollection, that is correct.
6 I did not undertake any efforts on that topic.

7 Q And do you know whether the FOMB has undertaken
8 any efforts to evaluate the amounts of revenues
9 to divert, retain, reallocate, or redirect?

10 MS. DeCAMP: Objection.

11 You can answer.

12 A To the best of my recollection, I'm not aware.

13 BY MS. JENNINGS:

14 Q Well, you're not aware of whether they have or
15 they haven't, or you don't remember whether they
16 have or they haven't?

17 A To the best of my recollection, I'm not aware of
18 whether they have or have not.

19 Q Did you ever know?

20 I'm confused by the "to the best of my
21 recollection."

22 A To the best of my recollection, I am not -- I'm
23 not aware. Nothing comes to mind, if that's
24 what you're asking but --

25 Q That's what I was asking.

1 A -- it's the best of my recollection as far as I
2 recall, yeah.

3 Q To your knowledge, were there any efforts
4 undertaken by the FOMB -- I'm going back a
5 topic -- to determine whether or not the
6 available revenues of the Commonwealth were
7 insufficient to meet the appropriations in
8 Fiscal Years 2018 through the present?

9 A I'm sorry. Can you just have --

10 Can the reporter read back the question one
11 more time.

12 Q I think I can repeat it.

13 A Okay.

14 Q Are you aware of any efforts undertaken -- and
15 by "you," I mean in your capacity as the
16 30(b)(6) witness today, are you aware of any
17 efforts undertaken by FOMB to determine whether
18 or not the available revenues of the
19 Commonwealth were insufficient to meet the
20 appropriations in Fiscal Years 2018 through the
21 present?

22 MS. DeCAMP: Objection.

23 But you can answer.

24 A I believe I'm aware of one instance in which
25 efforts might have been undertaken.

1 BY MS. JENNINGS:

2 Q Other than --

3 And that's the one we talked about?

4 A Correct. In 2019.

5 Q And other than that, are you aware of any other
6 efforts undertaken by the FOMB?

7 A Not that I can recall.

8 Q And do you know if any other efforts were
9 undertaken by the FOMB, or you just don't know
10 one way or the other?

11 A Not that I'm aware of.

12 Q You're not aware of, one way or the other,
13 whether there were additional efforts?

14 A I'm not aware whether there were or not, if
15 that's what you're asking.

16 Q Yes.

17 And are you aware of any efforts undertaken
18 by the FOMB to determine whether or not the
19 Commonwealth had a balanced budget for Fiscal
20 Years 2016 through the present?

21 And I'm including all of those years.

22 MS. DeCAMP: Objection.

23 You can answer.

24 A I am not aware.

25

1 BY MS. JENNINGS:

2 Q You are not aware of any efforts?

3 A I'm not aware of any efforts.

4 Q You don't know whether there were any or were
5 not; is that correct?

6 A Correct. I'm unaware of whether there were or
7 were not any efforts undertaken.

8 Q Moving onto another topic, which was in your
9 30(b)(6) notice, what is the FOMB's knowledge
10 about the amounts of claw-back funds disbursed
11 for uses other than the payment of general
12 obligation debt for Fiscal Years 2018 through
13 the present?

14 MS. DeCAMP: Objection.

15 You can answer.

16 A What is the knowledge of --

17 I'm sorry. Can you repeat the question one
18 more time for me.

19 BY MS. JENNINGS:

20 Q What is FOMB's knowledge about the amounts of
21 claw-back funds disbursed for other use -- for
22 uses other than the payment of general
23 obligation debt for each fiscal year from 2018
24 through the present?

25 A I'm unaware of what the FOMB's knowledge is on

1 that topic.

2 Q And that's because you haven't spoken to anyone
3 at the FOMB regarding that topic; correct?

4 A Correct.

5 Q At any point in time?

6 A To the best of my recollection, correct, at any
7 point in time.

8 Q And you did not attempt to speak to anyone at
9 the FOMB regarding that topic; correct?

10 A To the best of my recollection, that's correct.

11 Q Did anyone from Proskauer, during your prep
12 sessions, provide you any information to help
13 you prepare to testify about the amounts of
14 claw-back funds disbursed for uses other than
15 the payment of general obligation debt?

16 MR. MERVIS: Note my objection to the form.

17 A To the best of my recollection, no.

18 BY MS. JENNINGS:

19 Q And did anyone from Proskauer tell you that
20 Ms. Jaresko is the most knowledgeable person at
21 the oversight board to answer questions
22 regarding that issue?

23 MR. MERVIS: Again, I do have a potential
24 work product concern, but if you'll agree,
25 Taleah --

1 MS. JENNINGS: Same agreement?

2 MR. MERVIS: Yes. Let me just get it out
3 so it's clear.

4 If you'll agree that if the witness answers
5 that question, it's not a waiver of work product
6 with respect to any other question or answer,
7 then I'm fine.

8 MS. JENNINGS: That's agreed.

9 MR. MERVIS: Thank you.

10 Do you want to read it back? Could the
11 court reporter just read it back.

12 (The requested text was read by the
13 reporter.)

14 A To the best of my recollection, no, nobody at
15 Proskauer told me that.

16 BY MS. JENNINGS:

17 Q Do you know what the FOMB's knowledge is
18 regarding any efforts the FOMB took to evaluate
19 the amounts of claw-back funds used for
20 disbursements other than for the payment of
21 general obligation debt?

22 A I'm not particularly aware of what the FOMB may
23 know on that topic -- may be aware of on the
24 topic.

25 Q And that's because you have not spoken to anyone

1 at the FOMB regarding that topic; correct?

2 MS. DeCAMP: Objection.

3 You can answer.

4 A To the best of my recollection, that's correct.

5 BY MS. JENNINGS:

6 Q And you did not attempt to speak to anyone at
7 the FOMB regarding that topic; correct?

8 A To the best of my recollection, that is correct.

9 Q No one at Proskauer, during your prep sessions,
10 provided you any information regarding that
11 topic; correct?

12 MR. MERVIS: Note my objection to the form.

13 THE WITNESS: Can I answer, Antoinette?

14 MS. DeCAMP: Yes. Yes, you can answer.

15 A To the best of my recollection, no, no one from
16 Proskauer provided information on that topic to
17 me.

18 BY MS. JENNINGS:

19 Q No one at Proskauer, during your prep sessions,
20 informed you that Ms. Jaresko was the most
21 knowledgeable person on the board to answer
22 questions regarding those efforts; correct?

23 MR. MERVIS: So I do have a concern that
24 the answer to that question might invade
25 attorney work product.

1 I'm happy to have the witness answer the
2 question that's --

3 Taleah, you'll agree that in having him
4 answer, we're not waiving any work product claim
5 other than with respect to that question and
6 answer.

7 MS. JENNINGS: Agreed.

8 MR. MERVIS: Okay. If the court reporter
9 could just read back the question.

10 (The requested text was read by the
11 reporter.)

12 A To the best of my recollection, no, no one at
13 Proskauer informed me of that topic.

14 BY MS. JENNINGS:

15 Q Do you know what the amounts of --

16 Do you know anything about the amounts of
17 claw-back funds that were disbursed for uses
18 other than the payment of general obligation
19 debt during Fiscal Years 2016 through the
20 present?

21 MR. MERVIS: Object to the form.

22 A I'm aware of one instance I believe
23 conditionally allocable -- those conditionally
24 allocable revenues were used.

25

1 BY MS. JENNINGS:

2 Q Is that something you provided testimony about
3 earlier today?

4 A It is.

5 Q Are you aware of any other amounts of claw-back
6 funds that were disbursed for uses other than
7 the payment of general obligation debt during
8 those Fiscal Years 2016 through the present?

9 MR. MERVIS: I object to the form.

10 A I can only speak to the time when EY was
11 engaged, beginning in the fiscal '18 process
12 forward; so not fiscal '16 or '17?

13 And in that time period, I'm only aware of
14 that one instance that I testified to earlier,
15 in 2019, with the special resolution in which
16 those funds were used.

17 BY MS. JENNINGS:

18 Q Do you know if there were ever any other
19 instances where claw-back funds were used other
20 than for the payment of general obligation debt?

21 MR. MERVIS: I object to the form.

22 A Again, in the time period that I can speak to
23 from which EY was engaged to support the
24 oversight board in its role as an adviser that
25 is the only time period I'm aware of.

1 BY MS. JENNINGS:

2 Q Do you know if there were any others, or you
3 just don't know one way or the other?

4 A I'm not prepared to -- I can't speak to a time
5 period before EY was engaged when the oversight
6 board existed.

7 Q From 20 --

8 Sorry. Go ahead.

9 A No, I'm --

10 Q So from 2018 through the present, are you aware
11 of any other instances other than the one that
12 you've talked about, or do you know one way or
13 the other whether there are any others?

14 A I am not aware of another instance in which that
15 was the case.

16 Q And do you know one way or the other whether
17 there have been other instances during that time
18 period?

19 A I'm not aware of another instance other than
20 that one time in 2019.

21 Q Do you think that is the only instance where
22 that occurred?

23 A To the best of my recollection, I believe that
24 is the only time it has occurred.

25 Q Just to finish that, you have not confirmed that

1 understanding with anyone from the FOMB;
2 correct?

3 A To the best of my recollection, that is correct.

4 MR. MERVIS: How much more do you have? I
5 thought maybe -- it's been over an hour; so I
6 think it might make sense to take a break. But
7 if you're --

8 MS. JENNINGS: Let me just finish up with
9 this one area, and then we can take a short
10 break.

11 BY MS. JENNINGS:

12 Q Were any efforts undertaken by the FOMB to
13 evaluate the amounts of claw-back funds to
14 disburse for uses other than payment of general
15 obligation debt during the years 2018 through
16 the present?

17 MS. DeCAMP: Objection.

18 You can answer.

19 A I apologize for asking you to read that one more
20 time.

21 The first part of the question, what was it
22 you asked?

23 BY MS. JENNINGS:

24 Q Were any efforts undertaken by the FOMB to
25 evaluate the amounts of claw-back funds to

1 disburse for uses other than payment of general
2 obligation debt during Fiscal Years 2018 through
3 the present?

4 A I believe efforts were undertaken, yes.

5 Q What efforts?

6 A Efforts to determine the amount that would be
7 needed in connection with that 2019 special
8 resolution that I mentioned.

9 Q Other than that one specific example that you
10 have, are you aware of any other efforts?

11 A To the best of my recollection, I'm not aware of
12 any other efforts that were undertaken.

13 Q Is it your understanding that that is the only
14 effort undertaken by the FOMB during that time
15 period to evaluate the amounts of claw-back
16 funds to disburse for uses other than the
17 payment of general obligation debt, or is it
18 that you just don't have information?

19 MR. MERVIS: Object to the form.

20 A I do not have information on the topic.

21 MS. JENNINGS: Okay. Do you want to take a
22 five- or ten-minute break?

23 MR. MERVIS: Yes. That would be good.
24 Let's make it ten minutes.

25 THE VIDEOGRAPHER: We will go off the

1 record at 4:15.

2 (A recess was taken.)

3 THE VIDEOGRAPHER: We're back on the record
4 at 4:23.

5 BY MS. JENNINGS:

6 Q Mr. Chepenik, what is the FOMB's knowledge about
7 whether or not the Acts 30 and 31 incremental
8 revenues, as that term is defined in your
9 30(b)(6) notice, were diverted, retained,
10 reallocated, or redirected during Fiscal
11 Years 2018 through the present?

12 MS. DeCAMP: Objection.

13 You can answer.

14 A I'm not positive what the FOMB's knowledge is on
15 those topics.

16 BY MS. JENNINGS:

17 Q When you say "you're not positive," does that
18 mean you have no knowledge of what the FOMB's
19 knowledge is on those topic?

20 A I'm just not --

21 I'm not sure what their knowledge is.

22 Q Do you have any understanding as to what their
23 knowledge is on that topic?

24 A I imagine that there's some knowledge on that
25 2019 resolution that I mentioned which involved

1 petroleum tax revenues; so it's an Act 31
2 revenue.

3 Q Anything else?

4 A Nothing else I can recall.

5 Q Do you know what the FOMB's knowledge is
6 regarding any other revenues of or due to HTA
7 other than the Act 30 and 31 incremental
8 revenues, were diverted, retained, reallocated,
9 or redirected during Fiscal Years 2018 through
10 the present?

11 MR. MERVIS: Object to the form.

12 Excuse me. Object to the form.

13 A I'm unaware of what the FOMB's knowledge is on
14 that topic.

15 BY MS. JENNINGS:

16 Q That's because you have never spoken to anyone
17 at the FOMB regarding that topic; correct?

18 MS. DeCAMP: Objection.

19 You can answer.

20 A To the best of my recollection, that is correct.

21 BY MS. JENNINGS:

22 Q And including outside of the context of
23 preparing for your deposition; correct?

24 A To the best of my recollection, that is correct.

25 Q What is EY's knowledge about whether or not the

1 Acts 30 and 31 incremental revenues were
2 diverted, retained, reallocated, or redirected
3 during Fiscal Years 2018 through the present?

4 A To the best of my knowledge, EY and I am aware
5 of one instance in 2019 when those revenues were
6 used to fund police and teacher salaries.

7 Q Outside of that, do you know if there has been
8 any other instances where that's occurred?

9 A Where what has occurred?

10 Q Where Acts 30 and 31 incremental revenues were
11 diverted, retained, reallocated, or redirected?

12 A I'm not aware of another instance.

13 Yeah. I'm not aware of another instance.

14 Q Is it possible that there is another instance,
15 or are you saying that there was no other
16 instance?

17 A I'm not aware of another instance.

18 Q Have you confirmed that there have not been any
19 other instances where that's occurred?

20 A I have not.

21 Q You testified earlier that you read Ms. Lizette
22 Martinez's report in connection with your
23 preparation to testify; correct?

24 A Correct.

25 Q Is there anything in her report, in her

1 opinions, that you agree with?

2 MS. DeCAMP: Objection.

3 A When I read her report and I read Mr. Brickley's
4 report, it was really in connection with trying
5 to better understand the context of these
6 questions.

7 I wasn't doing a very detailed review of
8 her analysis in her expert report; so I don't
9 have a point of view on what she submitted. I
10 haven't reviewed the documents and such that she
11 reviewed.

12 BY MS. JENNINGS:

13 Q But you reviewed her report; correct?

14 A I did read through it briefly, yes.

15 Q Is there anything that you read in her report
16 that you agree with?

17 A Not that I can recall, no.

18 Q Is there anything that you disagree with in her
19 report?

20 A The notion of -- the connectivity and the notion
21 of the highway funding being redistributed back
22 to HTA, I disagree with that, with that
23 approach. I don't believe that's an accurate
24 representation of how the budgets are
25 constructed.

1 Q And why is that?

2 A Because they are not directly connected.

3 Q And where does that --

4 Where does your understanding come from in
5 that regard?

6 A EY's knowledge and work on the budgeting process
7 each year.

8 Q Anything else you disagree with in the report?

9 MS. DeCAMP: Objection.

10 Objection. That is not within the scope of
11 the topics, but you can ask him for his personal
12 opinion.

13 BY MS. JENNINGS:

14 Q Well, you said it was a document that you
15 reviewed in connection with preparing for the
16 testimony; so I think it's fair game.

17 I will ask you in the context of the
18 30(b)(6).

19 MS. JENNINGS: You can make your objection,
20 and he can answer the question.

21 MS. DeCAMP: I object. It is not --

22 It is EY's position that is not within the
23 scope of the topics, particularly given his
24 testimony about the purpose for which he was
25 reviewing the report.

1 But I will permit him to answer the
2 question as an individual.

3 MS. JENNINGS: Just for the record, I
4 disagree.

5 BY MS. JENNINGS:

6 Q But you can answer the question.

7 We can fight over it another time as to
8 whether it's in your personal knowledge or
9 within the scope of your testimony here today as
10 a 30(b)(6) witness.

11 A In my --

12 Can you actually repeat the question one
13 more time.

14 Q Yes. Let me try to find it.

15 You identified one area in the Martinez
16 report that you disagreed with, and I'm asking
17 you is there anything else in the report that
18 you disagree with?

19 A In my personal capacity, that's the one
20 connection that comes to mind. I do not recall
21 another area that I disagree with in particular.

22 Q You have not spoken to anyone from the FOMB to
23 find out whether or not there have been any
24 revenues of or due to the HTA that were
25 diverted, retained, reallocated, or redirected

1 during Fiscal Years 2018 through the present in
2 connection with your preparation to testify
3 today; correct?

4 MR. MERVIS: Note my objection to the form.

5 A To the best of my recollection, that is correct.

6 BY MS. JENNINGS:

7 Q You haven't spoken to anyone from the FOMB
8 outside of -- prior to preparing for your
9 deposition regarding this topic; correct?

10 A With regard to which topic?

11 Q The one that we're discussing which is -- I can
12 repeat it for you -- whether there have been any
13 revenues of or due to the HTA that were
14 diverted, retained, reallocated, or redirected
15 during Fiscal Years 2018 through the present?

16 A I understand. Thank you for clarifying.

17 To the best of my recollection, that is
18 correct. I have not.

19 Q Ms. -- withdrawn.

20 The Proskauer attorneys who attended your
21 prep session did not provide you with any
22 information in connection with these topics;
23 correct?

24 MR. MERVIS: Objection to form.

25 A In connection to which topics?

1 BY MS. JENNINGS:

2 Q I'm sorry. This topic, the one that we just
3 discussed. I can read it again if you need me
4 to.

5 A If you can, that would be helpful.

6 Q Whether there have been any revenues of or due
7 to the HTA that were diverted, retained,
8 reallocated, or redirected during Fiscal
9 Years 2018 through the present.

10 MR. MERVIS: Objection to the form.

11 A That is correct. To the best of my
12 recollection, they did not provide me any
13 information on that topic.

14 BY MS. JENNINGS:

15 Q And you didn't try to get any information
16 regarding that topic from anyone from the FOMB;
17 correct?

18 A To the best of my recollection, I did not, no.

19 Q Did Proskauer inform you that Ms. Jaresko is the
20 most knowledgeable person at the oversight board
21 to answer questions regarding this topic?

22 MR. MERVIS: Again, I do have a possible
23 work product concern, but I am fine with him
24 answering the question so long as, Taleah,
25 you'll agree it's not a waiver of work product

1 claims with respect to any other question or
2 answer.

3 MS. JENNINGS: Agreed.

4 MR. MERVIS: Do you need the question read
5 back, Adam?

6 THE WITNESS: No.

7 A No. To the best of my recollection, no, nobody
8 mentioned -- nobody from Proskauer mentioned
9 that to me.

10 BY MS. JENNINGS:

11 Q Do you know, as you sit here as a 30(b)(6)
12 witness, whether the FOMB undertook any efforts
13 to evaluate whether to divert, retain,
14 reallocate, or redirect revenues? And by
15 "revenues," I'm limiting it to revenues of or
16 due to the HTA.

17 MS. DeCAMP: Objection.

18 You can answer.

19 MR. MERVIS: Object to the form.

20 MS. DeCAMP: You can answer.

21 A To the best of my recollection, I'm not aware of
22 those efforts.

23 BY MS. JENNINGS:

24 Q Are you aware of whether the FOMB has any
25 knowledge about any efforts it undertook to

1 evaluate whether to divert, retain, reallocate,
2 or redirect revenues in that way?

3 A I'm only aware of one instance in 2019.

4 Q And other than that, you're not aware of whether
5 the FOMB has knowledge of other instances;
6 correct?

7 A I am not aware, that is correct.

8 Q You did not do anything to try to find out
9 whether the FOMB has knowledge of other
10 instances; correct?

11 A That is correct.

12 Q Proskauer did not provide you any information to
13 help you testify on this topic; correct?

14 A To the best of my recollection, I can't think of
15 any information that was provided on the topic
16 to me.

17 Q No one at Proskauer informed you that
18 Ms. Jaresko is the most knowledgeable person on
19 the board to answer questions about any such
20 efforts undertaken by the FOMB; correct?

21 MR. MERVIS: I'm going to try a shorter
22 version.

23 I'm all right with the witness answering
24 that question so long as you agree, Taleah, that
25 in providing an answer, there will be no waiver

1 of any work product claim by the board as to any
2 other question or answer.

3 MS. JENNINGS: Agreed.

4 MR. MERVIS: Do you need that back --
5 Do you need it back again?

6 THE WITNESS: Can you read back the
7 question.

8 MS. JENNINGS: Yes.

9 Ms. Court Reporter, can you please read
10 that one back.

11 (The requested text was read by the
12 reporter.)

13 A To the best of my recollection, that is correct,
14 no one at Proskauer informed me of that.

15 BY MS. JENNINGS:

16 Q Is Ms. Jaresko aware that you were providing
17 30(b)(6) testimony today?

18 MR. MERVIS: Object to the form.

19 MS. DeCAMP: Objection.

20 You can answer.

21 A I have not had any direct discussion with
22 Ms. Jaresko about that topic, but it's my
23 understanding she is aware.

24 BY MS. JENNINGS:

25 Q And is your --

1 Does your understanding come from anyone
2 other than counsel for EY?

3 A No.

4 Q Did anyone direct you not to speak to
5 Ms. Jaresko about any of the 30(b)(6) topics?

6 MS. DeCAMP: Objection.

7 You can answer that "Yes" or "No."

8 A No.

9 BY MS. JENNINGS:

10 Q So you did not tell Ms. Jaresko that you were
11 providing testimony at the 30(b)(6) deposition
12 today?

13 A This morning I sent her a note saying I will be
14 out-of-pocket for most of the day in my
15 deposition, but that was purely just so she knew
16 if she needed to contact someone on the EY team
17 to contact one of my colleagues.

18 Other than that one email note, there's
19 been no discussion with Natalie on the topic of
20 my 30(b)(6) deposition that I was a part of.

21 Q And are you aware of whether she was a part of
22 any -- this is a "Yes" or "No" question --
23 whether Ms. Jaresko was a part of any
24 discussions concerning this 30(b)(6) deposition?

25 Just a "Yes" or "No" question.

1 MS. DeCAMP: Object to the form.

2 A Yes.

3 BY MS. JENNINGS:

4 Q And do you know how many discussions she was a
5 part of?

6 MS. DeCAMP: Objection.

7 A No.

8 BY MS. JENNINGS:

9 Q Did Ms. Jaresko ask you anything about the
10 30(b)(6) deposition that you would be sitting
11 for today?

12 A No.

13 Q Did anybody other than --

14 Or who knows that you're here providing
15 30(b)(6) testimony today?

16 MR. MERVIS: Objection to the form.

17 A Well, I --

18 So the people that I'm aware of that are
19 aware are representatives from EY, including my
20 counsel, Ms. DeCamp; representatives from
21 Proskauer, most of whom are here, Mr. Mervis.

22 And then I don't know if the filing of the
23 response was public and whoever could have
24 pulled it from the public docket, but that's
25 generally who I'm aware of that are aware.

1 In that same email that I sent to Natalie
2 this morning, which was the first communication
3 I had with her on the matter, I included her
4 chief of staff and two other senior board staff
5 representatives, who I'm working with on
6 unrelated matters, but they're topical and
7 timely, and so I wanted to make sure they knew I
8 would be unavailable.

9 That's all the people I can think of.

10 BY MS. JENNINGS:

11 Q So prior to your email today, are you aware of
12 whether anyone from the FOMB knew that you would
13 be providing 30(b)(6) testimony today?

14 A I am unaware of who may have known.

15 Q Putting aside their identities, do you know if
16 anyone from the FOMB was aware that you would be
17 providing 30(b)(6) testimony, other than
18 learning it from your email, that you just
19 described, this morning?

20 A It's possible I may have mentioned it once or
21 twice to one of the senior board staff
22 representatives in the past, but it was not in
23 the context of providing information analysis.
24 It was more that I couldn't respond to their
25 questions because I was focused on this instead.

1 Q And who was that, that you had that conversation
2 with?

3 A I wouldn't classify it as "conversations"; I
4 would classify it as a "comment."

5 The one person that comes to mind is German
6 Ojeda, one of the board staff members that I
7 work with quite frequently on a number of
8 topics.

9 Q When did you inform him of that or make that
10 comment to him?

11 A Probably within the last week, I would say.

12 Q Is there anyone else at the FOMB who, to your
13 knowledge, knew that you would be providing
14 30(b)(6) testimony in connection with this
15 matter?

16 A I believe the chief -- the chief of staff and
17 deputy chief of staff are aware.

18 Q And when did they become aware?

19 MR. MERVIS: Object to the form.

20 A I believe they became aware when there were
21 prior discussions with Ms. Jaresko that I was
22 not a part of but a prior discussion about
23 Ms. Jaresko or EY providing testimony as a
24 30(b)(6).

25

1 BY MS. JENNINGS:

2 Q And when did that discussion take place, to your
3 knowledge?

4 A To the best of my recollection, within the last
5 month, maybe. Yeah.

6 Q How long did you know that you would be
7 providing 30(b)(6) testimony in this proceeding?

8 MR. MERVIS: Objection to the form.

9 THE WITNESS: I can answer?

10 MS. DeCAMP: You can answer.

11 BY MS. JENNINGS:

12 Q Yes.

13 A Within the last month, I would say.

14 Q And when you say "within the last month," was it
15 a month ago? Was it anytime within the past 30
16 days? Give me some sense of what you're talking
17 about.

18 A I -- honestly, I don't recall the specific day
19 and the specific week. I'm aware that there
20 were conversations about whether EY was well
21 positioned to be the respondent and the need for
22 EY to receive a subpoena requesting testimony as
23 a declarant in response to that said subpoena.

24 I don't know the timing of all that because
25 I was not involved in those discussions. And I

1 just recall that they all occurred really within
2 the last, I would say, month; maybe within the
3 last two months at the most, but it's really the
4 last month that I recall.

5 Q Was it your understanding that if EY was going
6 to provide a 30(b)(6) -- sit for a 30(b)(6)
7 deposition, you would be the representative
8 testifying at the deposition?

9 MR. MERVIS: Object to the form.

10 A I know there were some discussions internally
11 about who the best positioned person would be,
12 the most knowledgeable person would be to be the
13 respondent, and I was selected as that person.

14 BY MS. JENNINGS:

15 Q You're also designated as a witness who may
16 provide testimony during the plan confirmation
17 hearing; is that right?

18 A I am, yes.

19 Q And is your testimony going to concern any of
20 the six topics identified on the 30(b)(6)
21 subpoena that was sent to EY?

22 We can pull those up if you need it. Do
23 you need it?

24 MR. MERVIS: Well, this -- I mean, he
25 wasn't --

1 Taleah, he wasn't noticed about his trial
2 testimony so --

3 MS. JENNINGS: I'm asking about topics
4 relating to this 30(b)(6). So why don't we get
5 the 30(b)(6) notice up so he can see it.

6 MR. GARCIA: I can get it up on the screen.
7 Alejandro, please.

8 BY MS. JENNINGS:

9 Q Let's look at Topic 1. Just take an opportunity
10 to look at that Topic 1.

11 A So I have not been noticed --

12 MR. MERVIS: Hold on. There's no question,
13 as far as I can tell.

14 BY MS. JENNINGS:

15 Q Have you read Topic 1?

16 A I have.

17 Q And with regard to --

18 You're going to be submitting a declaration
19 in connection with the plan confirmation
20 hearing; correct?

21 MS. DeCAMP: That's a "Yes" or "No."

22 A Yes.

23 BY MS. JENNINGS:

24 Q And is the testimony in your declaration going
25 to concern at all the topic that is identified

1 here as Number 1?

2 MR. MERVIS: Yeah, I don't know --

3 So I object. I don't understand why, in
4 this deposition, it's appropriate for you to ask
5 that question. I mean, your client -- your
6 client --

7 Look, I object. I'm not sure where you're
8 going --

9 MS. JENNINGS: Put it this way. Why don't
10 we do it this way. I may come back to 1, but I
11 think what -- why don't we just start with 2,
12 which is a topic you are here to discuss.

13 MR. MERVIS: Well --

14 MS. JENNINGS: Let me get my question out.
15 You may have the same objection; you may not.
16 I'll certainly have a different answer to your
17 objection with regard to 2.

18 MR. MERVIS: Fair enough.

19 BY MS. JENNINGS:

20 Q Why don't you take a look at Topic 2 and read
21 that.

22 A Okay. I've read it.

23 Q Okay. And will you be providing any testimony
24 in your declaration regarding the topic listed
25 here under -- with the number 2?

1 MS. DeCAMP: "Yes" or "No."

2 MR. MERVIS: So I object -- yeah.

3 And also, let me --

4 I object to the form. And the
5 difficulty -- this topic in my mind is
6 unintelligible or close to it; so it's a
7 pretty --

8 MS. JENNINGS: Let's not have speaking
9 objections. You're getting into a speaking
10 objection, and I want to cut that short --

11 MR. MERVIS: Yeah, let's not --

12 MS. JENNINGS: -- because it guides the
13 witness.

14 If you have an objection, then let's talk
15 about it but regarding -- you know, what you're
16 saying right now is inappropriate.

17 MR. MERVIS: I have an objection which is
18 that this question goes beyond the scope of
19 these topics that the witness was noticed for.

20 MS. JENNINGS: I'm talking about a topic
21 that he was noticed for.

22 MR. MERVIS: That doesn't make it
23 appropriate. That doesn't make it appropriate
24 asking him what his trial testimony --

25 MS. JENNINGS: Why don't you guys decide

1 whether you're going to direct him not to
2 answer, but I'm going to stand by my question.

3 It's directly related to the topics that
4 he's here for and whether -- if he's testifying
5 about something relating to the topic, then I
6 want to know what that testimony is going to be
7 because it should be disclosed in connection
8 with this topic that's listed here that he is
9 prepared and designated to testify about.

10 BY MS. JENNINGS:

11 Q So I'll ask again: The subject of your
12 declaration, does it concern at all testimony
13 relating to Topic Number 2?

14 MS. DeCAMP: I object to the question as
15 outside the scope of the deposition topics, but,
16 Adam, you can answer that "Yes" or "No."

17 MR. MERVIS: Yeah, this -- I object to the
18 form.

19 A Can you read the question.

20 BY MS. JENNINGS:

21 Q Yes.

22 Why don't you read Number 2.

23 Does your declaration that --

24 Have you already started to prepare your
25 declaration?

1 A I have, yes.

2 Q And the testimony contained in your declaration,
3 does any of it relate to Topic Number 2?

4 MR. MERVIS: I object. The way that's
5 phrased, I would ask that the witness not answer
6 that question.

7 I was okay with the way you did it before,
8 but that's a direct invasion of work product.

9 THE WITNESS: Antoinette, can I --

10 MS. DeCAMP: Yes, I didn't --

11 Could you read back the question.

12 MS. JENNINGS: Let me ask a better
13 question. I think I know where Mr. Mervis is --
14 I think I see his problem.

15 MR. MERVIS: Yeah, you probably do.

16 BY MS. JENNINGS:

17 Q Are you going to provide testimony in the plan
18 confirmation hearing, to the best of your
19 knowledge, regarding Topic Number 2?

20 MS. DeCAMP: "Yes" or "No."

21 MR. MERVIS: I object to the form, but I
22 have no other concern right now.

23 A To the best of my knowledge, no.

24 BY MS. JENNINGS:

25 Q And same question for Topic Number 3.

1 MS. JENNINGS: Are you able to scroll down
2 a little bit so the full 3 is showing?

3 Thank you.

4 BY MS. JENNINGS:

5 Q Are you going to be providing testimony at the
6 plan confirmation hearing regarding Topic
7 Number 3?

8 MS. DeCAMP: Same objection. You can
9 answer "Yes" or "No."

10 MR. MERVIS: And I object to the form.

11 A To the best of my knowledge, no.

12 BY MS. JENNINGS:

13 Q And let's move to Number 4. Is it your
14 understanding that you will be testifying
15 regarding the topic -- at the plan confirmation
16 hearing regarding the topic listed here on this
17 30(b)(6) subpoena as Topic Number 4?

18 MS. DeCAMP: Same objection.

19 You can answer "Yes" or "No."

20 MR. MERVIS: Same objection to form.

21 A To the best of my knowledge, no.

22 BY MS. JENNINGS:

23 Q And with regard to Number 5, same question: Is
24 it your understanding that you'll be providing
25 testimony regarding this topic at the plan

1 confirmation hearing?

2 MS. DeCAMP: Same objection.

3 You can answer "Yes" or "No."

4 MR. MERVIS: I have the same objection to
5 form.

6 A To the best of my knowledge, no.

7 BY MS. JENNINGS:

8 Q And same question with regard to 6.

9 MS. DeCAMP: And same objection.

10 You can answer "Yes" or "No."

11 MR. MERVIS: Same objection to form.

12 A To the best of my knowledge, no.

13 MS. JENNINGS: Now, let's scroll back up to
14 Number 1.

15 BY MS. JENNINGS:

16 Q Will you be providing testimony, to the best of
17 your knowledge, at the plan confirmation hearing
18 regarding Topic Number 1?

19 MS. DeCAMP: Same objection.

20 You can answer "Yes" or "No."

21 MR. MERVIS: And same objection to form.

22 A To the best of my knowledge, no.

23 MS. JENNINGS: I think I probably am done.
24 I just want to look over my notes, and maybe a
25 five-minute break would help.

1 MR. MERVIS: That's fine. We'll come back
2 at --

3 MS. JENNINGS: 5:00.

4 MR. MERVIS: -- 5:00?

5 THE VIDEOGRAPHER: I'll take us off the
6 record at 4:55.

7 (A recess was taken.)

8 THE VIDEOGRAPHER: Back on the record at
9 5:00 p.m.

10 MR. MERVIS: I don't know. Is Taleah
11 actually on the -- maybe not.

12 MR. GARCIA: She's going to be on in a
13 minute. Sorry about that.

14 MR. MERVIS: I have no questions.

15 THE VIDEOGRAPHER: Ms. Jennings, we are now
16 on the record. You may proceed.

17 BY MS. JENNINGS:

18 Q Mr. Chepenik, I have no further questions at
19 this time.

20 MS. JENNINGS: I, like Mr. Garcia, reserve
21 all rights on behalf of my client, and I think
22 that's enough to say while we're in the presence
23 of you.

24 Arturo, you're on mute.

25 I will want to say something before we

1 close the record, but anyone else who needs to
2 ask questions, I guess we can open it up for
3 them.

4 MR. GARCIA: I also don't have any further
5 questions.

6 So does anybody in the deposition, any
7 other party have any questions of Mr. Chepenik?

8 Okay. I will take that as a no.

9 So Taleah?

10 MS. JENNINGS: I just want to state for the
11 record -- and Mr. Chepenik can stay or he can go
12 for this -- that the --

13 MR. MERVIS: For the record --

14 Hold on. For the record, he can sign off.
15 You don't need to waste time.

16 MS. JENNINGS: Who doesn't need to waste
17 time?

18 MR. MERVIS: Adam.

19 MS. JENNINGS: Oh, yes. I don't need Adam.
20 We're closed with regard to Adam.

21 MR. GARCIA: Mr. Chepenik, thank you very
22 much for your time today. Good to meet you.
23 And coffee on me next time you're in San Juan.

24 THE WITNESS: Certainly, Mr. Garcia. The
25 board's offices are right next to yours, I

1 believe.

2 MR. GARCIA: I know. I know they are. And
3 we will not discuss anything with regard to your
4 testimony or the PROMESA case.

5 Thank you.

6 THE WITNESS: Bye-bye.

7 MS. JENNINGS: I do want to stay on the
8 record for a minute.

9 MR. MERVIS: Yeah, yeah. I didn't think
10 Adam needed to be --

11 MS. JENNINGS: I just want to state for the
12 record, you know, it's clear that
13 Mr. Chepenik -- Chepenik, excuse me -- did not
14 prepare to testify in the way that the parties
15 have agreed that he would be here to testify.
16 He did not try to determine anything within the
17 FOMB's knowledge.

18 As you know, we served an initial 30(b)(6)
19 on the FOMB. We were told that a representative
20 from EY was best situated to testify on those
21 topics and that you would be -- FOMB would sort
22 of coordinate an EY representative testifying in
23 response to our 30(b)(6) subpoena to the FOMB.

24 And I think --

25 I can actually quote, during one of our

1 meet-and-confers on this issue, when we said we
2 would be going to court, it was, you know, a
3 Proskauer representative said, "It's just a
4 piece of paper. You are getting the 30(b)(6)
5 that you want from the FOMB. It's just a piece
6 of paper. Someone from EY will be here to
7 testify, but they need a subpoena because of
8 their internal protocols and processes and
9 procedures."

10 So I am disappointed in what happened today
11 and what Mr. Chepenik was not prepared to do
12 today, and I think absent -- you know, because
13 of the schedule right now, how tight it is, we
14 think we need to go to court very quickly on
15 this.

16 I want to open up the floor for a
17 meet-and-confer so that if there's, you know,
18 something you guys want to do to fix the
19 situation, you can.

20 But right now, we feel like we were misled
21 to walk away from the FOMB 30(b)(6), and we are
22 not too happy about it.

23 MS. DeCAMP: Wait. Could I just --

24 Ms. Jennings, can I make one comment, and
25 then I'll sign off because this is really more

1 of a discussion between Proskauer and the DRA
2 parties.

3 It is Ernst & Young's position that the
4 witness was adequately prepared to testify to
5 the topics as they relate to the work that
6 Ernst & Young did for the board which is what --
7 how I read the stipulation.

8 You guys can have your discussions. Either
9 way, Ernst & Young is taking the position that
10 we fulfilled our obligation in producing a
11 witness for purposes of this -- for purposes of
12 this deposition.

13 I note it is 5:05, and we've been going
14 since 9:30 this morning with a couple of breaks,
15 including an hour break for lunch; so I believe
16 six -- more than six hours of testimony kind of
17 evidences that the witness was prepared to
18 testify regarding the topics.

19 There were five topics, six hours of
20 testimony. We believe EY was -- the witness was
21 adequately prepared.

22 I think any other discussions, I don't need
23 to be part of, because that really is between
24 the parties.

25 Ernst & Young is not a party in this

1 matter; so unless anyone has any objection, I
2 also will sign off and leave the rest of any
3 meet-and-confer discussions to you guys.

4 MR. GARCIA: Ms. DeCamp, before you leave,
5 I would like the videographer to let us know how
6 much time has elapsed.

7 THE VIDEOGRAPHER: We've been on the record
8 for 5 hours and 22 minutes and counting.

9 MR. GARCIA: Okay. All right. That was my
10 guesstimate. So 5 hours, 24 minutes.

11 Taleah, go ahead.

12 I don't have anything else for you,
13 Ms. DeCamp. I wanted for you to understand how
14 much time is spent.

15 MS. DeCAMP: Thank you, Mr. Garcia. I
16 appreciate it.

17 MR. GARCIA: Thank you very much, by the
18 way.

19 MS. DeCAMP: Sure. Bye.

20 MR. MERVIS: So my colleague, partner,
21 Margaret Dale, is on the video. I have my own
22 thoughts about what you said, Taleah, but I'll
23 let Margaret -- I'm sure she'll express them
24 more eloquently and perhaps with mixed emotion;
25 so I will turn the floor over to her.

1 MS. DALE: Thanks, Mike. This is Margaret
2 Dale.

3 Taleah or Ms. Jennings, however we're doing
4 this, we disagree with your position. You were
5 not misled.

6 We told you from the get-go that someone at
7 EY would be in the best position to answer these
8 topics on behalf of the board, and we said we
9 would adopt that testimony in its entirety.
10 That's what we've done.

11 And so I don't have time --

12 I'm already past my 5:00 that I stayed on
13 for this because I figured you were about to
14 make some statement on the record; so I'm happy
15 to have another meet-and-confer if you want
16 to -- tomorrow. Can't do it tonight -- if that
17 makes sense. If not, you can make whatever
18 application you want to the Court, and we will
19 address it.

20 I believe in the stipulation that you
21 signed, you indicated that you would not be
22 making any further efforts to change any kind
23 of -- the schedule, and so I'm not sure exactly
24 what you're looking for.

25 But as I said, happy to talk -- later,

1 tomorrow -- if that makes sense; and if it
2 doesn't make sense, we'll just respond to your
3 request to the Court.

4 MS. JENNINGS: Yes. I mean, you have other
5 colleagues if you have to jump -- I understand.
6 We're all busy -- if there's one of your other
7 colleagues who wants to continue discussing; if
8 not, then I think we are -- really, there's
9 nothing more to discuss, if you're not going to
10 produce an appropriate 30(b)(6) witness in
11 response to our 30(b)(6) notice to the FOMB, who
12 actually has knowledge and educates themselves
13 on the FOMB's knowledge, then I think really the
14 only thing left for us to do is go to court on
15 it.

16 MS. DALE: Okay. You take whatever steps
17 you need to. Thanks a lot.

18 MS. JENNINGS: Thank you.

19 MR. GARCIA: Thank you, all.

20 MR. MERVIS: So we're off the record now?

21 MR. GARCIA: Michael, for the record, I
22 fully agree with Taleah. I think that the
23 witness -- contrary to what Margaret is saying,
24 I don't think the witness -- especially the last
25 round of questions, I don't believe the witness

1 was properly prepared to be a 30(b)(6) witness.

2 And I don't believe that you have complied
3 with the provisions of the stipulation as so
4 ordered by the Court.

5 But, you know, we'll discuss that further,
6 and if need be, we'll come back to you and go to
7 court if we have to.

8 MS. DALE: Okay.

9 MR. MERVIS: Bye, everyone.

10 THE VIDEOGRAPHER: I'll officially take us
11 off the record at 5:09. Thank you.

12 (Time noted: 5:09 p.m.)

13 AND FURTHER THE DEPONENT SAITH NOT.

14
15 _____
16 ADAM CHEPENIK
17
18
19
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23
24
25

1 STATE OF INDIANA)
) SS:

2 COUNTY OF HANCOCK)

3 I, Tara Gandel Hudson, RPR, CRR, a Notary
4 Public in and for the County of Hancock, State of
5 Indiana at large, do hereby certify that the
6 deponent, ADAM CHEPENIK, was by me remotely sworn
7 to tell the truth, the whole truth, and nothing but
8 the truth in the aforementioned matter;

9 That the foregoing deposition was taken on
10 behalf of the AmeriNational Community
11 Services, LLC, as servicer for the GDB Debt
12 Recovery Authority, with the witness located in
13 Washington, D.C., on the 20th day of October, 2021,
14 scheduled to commence at 9:30 a.m. AST, pursuant to
15 the Federal Rules of Civil Procedure;

16 That said deposition was taken down
17 stenographically and transcribed to English under
18 my direction, and that the transcript is a true
19 record of the testimony received remotely of said
20 deponent; and that the signature of said deponent
21 to his deposition was requested;

22 That the parties were represented by their
23 counsel as aforementioned.

24 I do further certify that I am a disinterested
25 person in this cause of action; that I am not a

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1 relative or attorney of either party, or otherwise
2 interested in the event of this action, and am not
3 in the employ of the attorneys for either party.

4 IN WITNESS WHEREOF, I have hereunto set my
5 hand and affixed my notarial seal this 23rd day of
6 October, 2021.

7
8 Tara Gandel Hudson

9 

10 Notary Public, State of Indiana

Commission No. 682534

11 My Commission Expires March 27, 2024
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Veritext Legal Solutions
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Suite 1820
Cleveland, Ohio 44114
Phone: 216-523-1313

October 25, 2021

To: Antoinette DeCamp

Case Name: In Re: Insolvency Proceedings For The Commonwealth Of
Puerto Rico v.

Veritext Reference Number: 4852926

Witness: Adam W. Chepenik Deposition Date: 10/20/2021

Dear Sir/Madam:

The deposition transcript taken in the above-referenced
matter, with the reading and signing having not been
expressly waived, has been completed and is available
for review and signature. Please call our office to
make arrangements for a convenient location to
accomplish this or if you prefer a certified transcript
can be purchased.

If the errata is not returned within thirty days of your
receipt of this letter, the reading and signing will be
deemed waived.

Sincerely,

Production Department

NO NOTARY REQUIRED IN CA

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DEPOSITION REVIEW
CERTIFICATION OF WITNESS

ASSIGNMENT REFERENCE NO: 4852926

CASE NAME: In Re: Insolvency Proceedings For The Commonwealth
Of Puerto Rico v.

DATE OF DEPOSITION: 10/20/2021

WITNESS' NAME: Adam W. Chepenik

In accordance with the Rules of Civil
Procedure, I have read the entire transcript of
my testimony or it has been read to me.

I have made no changes to the testimony
as transcribed by the court reporter.

Date Adam W. Chepenik

Sworn to and subscribed before me, a
Notary Public in and for the State and County,
the referenced witness did personally appear
and acknowledge that:

They have read the transcript;

They signed the foregoing Sworn
Statement; and

Their execution of this Statement is of
their free act and deed.

I have affixed my name and official seal

this _____ day of _____, 20____.

Notary Public

Commission Expiration Date

DEPOSITION REVIEW
CERTIFICATION OF WITNESS

ASSIGNMENT REFERENCE NO: 4852926

CASE NAME: In Re: Insolvency Proceedings For The Commonwealth
Of Puerto Rico v.

DATE OF DEPOSITION: 10/20/2021

WITNESS' NAME: Adam W. Chepenik

In accordance with the Rules of Civil
Procedure, I have read the entire transcript of
my testimony or it has been read to me.

I have listed my changes on the attached
Errata Sheet, listing page and line numbers as
well as the reason(s) for the change(s).

I request that these changes be entered
as part of the record of my testimony.

I have executed the Errata Sheet, as well
as this Certificate, and request and authorize
that both be appended to the transcript of my
testimony and be incorporated therein.

Date

Adam W. Chepenik

Sworn to and subscribed before me, a
Notary Public in and for the State and County,
the referenced witness did personally appear
and acknowledge that:

They have read the transcript;
They have listed all of their corrections
in the appended Errata Sheet;
They signed the foregoing Sworn
Statement; and
Their execution of this Statement is of
their free act and deed.

I have affixed my name and official seal
this _____ day of _____, 20____.

Notary Public

Commission Expiration Date

ERRATA SHEET

VERITEXT LEGAL SOLUTIONS MIDWEST

ASSIGNMENT NO: 10/20/2021

PAGE/LINE(S) / CHANGE /REASON

Date Adam W. Chepenik

SUBSCRIBED AND SWORN TO BEFORE ME THIS _____

DAY OF _____, 20_____.

Notary Public

Commission Expiration Date

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[anybody - authorized]

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[authorized - believe]

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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